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No. of 540 Nov. 29. 1880

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~344.~~ 85

THE STEAMBOAT SABINE, &c., EDWARD T. PARKER, PUBLIC ADMINISTRATOR OF SARAH C. SHIRLEY, DECEASED, AMERICA B. SELBY ET AL., APPELLANTS,

vs.

THE STEAMBOAT RICHMOND, &c., NATHANIEL S. GREEN, JOHN N. BOFFINGER, ET AL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF LOUISIANA.

FILED NOVEMBER 7, 1877.

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No. 344.

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INDEX.

	Original.	Print.
Libel of Shirley *et als*	1	1
Claim and answer and cross-libel of steamer Richmond	7	3
Order of court on cross-libel	19	7
Libel of Merchants' Mutual Insurance Company	20	7
Answer to cross-libel	24	9
Citation to master of steamer Sabine	36	12
Citation to master of steamer Richmond	38	13
Intervening libel of Lehman, Newgass & Co	39	14
Citation to master of steamer Sabine	44	15
Citation to master of steamer Richmond	46	16
Intervening libel of Jurey & Gillis	48	17
Citation to master of steamer Richmond	52	18
Citation to master of steamer Sabine	54	19
Note by clerk United States district court	55	19
Answer of owners steamer Sabine to libel of Merchants' Mutual Insurance Company	57	20
Agreement	61	21
Answer of owners steamer Richmond to libel of Merchants' Mutual Insurance Company	62	22
Answer of owners steamer Richmond to intervening libels	64	23
Order consolidating cases	66	23
Rule to annul order to give bond	67	24
Order, time to furnish bond enlarged	68	24
Rule to sell steamer Sabine	69	24
Order on rule of 27th February, 1872	69	25
Motion to rescind or modify order to give bond	70	25
Affidavit of R. F Fuller	71	26
Affidavit of N. C. Selby	73	26

	Original.	Print.
Affidavit of J. McHaffie	75	27
Submission	75	27
Order to sell Sabine	76	27
Order reducing bond	76	28
Bond by Sabine	77	28
Rule to bond the Richmond	79	29
Order, rule to bond continued, &c	79	29
Order fixing bond of steamer Richmond at $30,000	80	29
Bond by the Richmond	81	29
Testimony of David O. Harkins for Richmond	84	31
Testimony of J. B. Woods for Richmond	93	33
Submission of causes	93	34
Order allowing the Richmond further time to file brief	94	34
Judgment and order of reference	94	34
Order extending time for appeal	95	35
Order rescinding decree of 24th April, 1873	96	35
Rule to reinstate order of 24th April, &c	97	36
Commissioner's report on costs and damages	98	36
Bills A and B annexed to report	108	39
C, D, and E annexed to report	109	40
F and G annexed to report	110	41
H, I, K, L annexed to report	111	41
Affidavit of N. C. Selby	112	42
Rule to confirm report	114	43
Exception to report	115	43
Judgment	117	44
Order to pay Shannon $500	118	44
Rule to amend decree	119	45
Appeal of R. F. Fuller *et als*	121	45
Do.	123	46
Rule to dismiss appeal of Fuller	125	46
Notice to test solvency of surety on bond	125	47
Appeal bond	127	47
Do.	130	48
Order dismissing rule to modify and amend decree of 5th June, 1873	132	49
Order continuing rule to dismiss Fuller's appeal	133	50
Clerk's report	133	50
Document O, No. 1	134	50
O, No. 2	135	51
O, No. 3	137	51
O, No. 4	140	52
Note of evidence	142	53
Order, appeal maintained	142	53
Intervention of P. S. Brown	143	53
Exception for steamer Richmond *et al.* to libel and interventions	148	55
Rule on exceptors to make exceptions more definite, &c	150	56
Order to appraise steamer Richmond	152	56
Order fixing bond of Richmond at $30,000	153	57
Order dismissing rule of 14th March	153	57
Order of reference to R. H. Shannon on claims for supplies	154	57
Answer to intervening libel of Brown	154	57
Report of Commissioner Shannon	156	58
Exceptions to commissioner's report	162	60
Do.	162	60
Hearing and submission of report	164	61
Order, exceptions overruled &c,	165	61

	Original.	Print.
Second report of Commissioner Shannon	165	61
Libellant's opposition to second report	173	64
Order to pay Cavanaugh, &c	175	65
Petition and order subrogating insurance companies to claims of intervenors	176	65
Petition for appeal	178	66
Motion and order of appeal	180	66
Rule to dismiss appeal	181	67
Order dismissing appeal of Merchant's Mutual Insurance Company *et al*	182	67
Motion and order to pay Richmond	183	68
Rule for new trial of rule to dismiss appeal	184	68
Appeal bond	186	69
Order allowing appeal	190	70
Diagrams referred to in deposition of McHaffie and diagram G G		
Testimony of local inspectors	191	72
M. C. Levi	193	73
D. Trunnell	195	74
D. W. Ensminger	198	74
R. F. Fuller	199	75
N. C. Selby for steamer Sabine	202	76
R. F. Fuller for steamer Sabine	216	80
Commission for steamer Sabine	219	81
Interrogatories and cross	220	82
Return to commission	224	83
Deposition of Theo. Fugate for Sabine	225	84
Jas. Levi for Sabine	231	85
Captain Selby for Sabine	240	88
M. Ansley for Sabine	243	89
Petition for appeal for Sarah C. Shirley *et al.* and order	246	90
Agreement	249	92
Hearing and continuance	250	92
Submission	251	92
Decree and reference to Commissioner Gurley	251	93
Rule for new trial	252	93
Order, new trial refused	255	94
Motion and order for appeal	255	95
Testimony of N. S. Green for Richmond	257	96
B. R. Pegram for Richmond	262	97
Jas. F. Hicks for Richmond	263	98
Jno. H. Burk for Richmond	266	99
Jno. S. Neal for Richmond	268	100
Rule to vacate appeal	271	101
Order granting appeal vacated	271	101
Report on question of damages sustained by Richmond	272	101
Testimony of N. C. Selby for Sabine	276	103
R. L. Robinson for Sabine	305	114
L. W. Cooper for Sabine	311	117
R. L. Robertson, jr., for Sabine	315	118
J. H. Lynch for Sabine	324	121
Diagram referred to in testimony of Lynch	336	127
Testimony for claimants steamer Richmond	337	128
of J. N. Boffinger for steamer Richmond	338	129
of Jno. F. McCord for steamer Richmond	377	143
Documents annexed to report	409–419	156
Exception to report of commissioner	419	162

	Original.	Print.
Order, exception to report to lay over	423	163
Report on damages sustained by insurance companies	423	164
Testimony for libellants *in re* Merchants' Mutual Insurance Company *vs.* steamers Sabine and Richmond	433	170
of Paul Fourchy	434	170
E. A. Palfrey	440	173
H. V. Ogden	447	175
Jas. J. Day	453	177
Walter Huntington	460	180
Geo. Lanaux	462	180
Thos. Sefton	464	181
Geo. Mather	467	183
L. R. Coleman	471	184
Submission of exceptions to report	472	185
Decree	473	185
Rule for a new trial	475	186
Motion and order, report confirmed	476	186
Submission of rule for new trial	477	187
Order, rehearing refused	477	187
Order taxing fee of Commissioner Gurley	478	187
Motion and order for appeal	478	187
Motion and order as to appeal bond	481	188
Letters of administration of E. T. Parker	482	189
Petition for appeal and order	483	189
Order, surety on appeal bond accepted	486	190
Appeal bond	486	190
Testimony of D. R. Davis for Merchants' Mutual Insurance Company	490	192
Exhibit X X X	514	201
Testimony of M. Walsh for Merchants' Mutual Insurance Company	515	202
D. W. Ensminger for Merchants' Mutual Insurance Company	517	203
O. F. Vallette for Merchants' Mutual Insurance Company	519	203
Clerk's certificate	522	204
Citation	523	205
Testimony in district court	525	206
TESTIMONY FOR STEAMER SABINE.		
Testimony of Thos. J. Harrison	525	206
D. W. Ensminger	589	234
Jno. Douglass	636	255
Durbin Turnell	640	257
Marion C. Levi	670	270
Jas. Levi	685	276
Thos. J. Henry	689	279
R. F. Fuller	705	286
Emile Gross	718	291
Jno. E. Ford	738	300
G. Andrews	747	305
Jas. Pell	767	313
N. C. Selby	772	315
TESTIMONY FOR MERCHANTS' MUTUAL INSURANCE COMPANY.		
Testimony of Henry L. Lants	777	318
Joseph Travis	787	325

	Original.	Print.
TESTIMONY FOR RICHMOND.		
Testimony of Richard Jones	792	330
Francis M. Cayton	797	333
Andis Saunders	818	350
Chas. Kiteloc	823	353
Jno. H. Williams	827	356
Chas. J. Duffey	831	360
Ed. North	852	375
Jas. Farley	861	382
Thos. Callow	870	389
N. W. Wilson	879	396
J. B. Woods	887	402
Jesse McHarvey	899	411
Jno. Langlois	908	417
Chas. Leeds	911	419
Augustus A. Tayou	921	426
Jno. H. Burke	926	430
Jno. T. McCord	932	435
Jno. T. Burdeau	944	443
R. H. Smith	953	449
T. P. Leathers	95	453
J. N. Boffinger	971	462
Jno. T. McCord	971	462
T. P. Leathers	971	462
Pat Kane	974	464
Jno. W. Cannon	984	471
J. W. Carlton	989	474
Jno. V. Jack	994	477
Robt. D. Court	1010	489
N. S. Green	1032	505
Jessie McHaffie	1049	517
Geo. Clark	1060	525
Jas. Lusk	1064	527
Clerk's certificate	1072	532

1 UNITED STATES OF AMERICA:

Circuit court of the United States in and for the fifth circuit and district of Louisiana.

SARAH C. SHIRLEY AND OTHERS
vs.
STEAMBOAT RICHMOND. } No. 7057.

MERCHANTS' MUTUAL INSURANCE COMPANY
vs.
STEAMERS SABINE AND RICHMOND.

Transcript of proceedings had in U. S. district court, district of Louisiana. Filed November 3d, 1873.

U. S. district court, district and State of Louisiana. In admiralty.

SARAH C. SHIRLEY AND OTHERS
vs.
STEAMBOAT RICHMOND. } No. 9822.

Libel.—Filed February 16th, 1872.

To the Honorable E. H. Durell, judge of the United States district court for the district of Louisiana.

The libel of Mrs. Sarah C. Shirley, widow, residing in Louisville, Kentucky; Mrs. America B. Selby, herein authorized, aided, and joined by her husband, Nathaniel C. Selby, a resident of New Orleans, and
2 Richard F. Fuller, also a resident of New Orleans, owners of the steamboat Sabine, whereof N. C. Selby was master, against the Steamboat Richmond, whereof N. S. Green is now or late was master, her tackle, apparel, machinery, and furniture now lying in the port of New Orleans, Louisiana, and against all persons intervening for their interest in said vessel in a cause of collision, civil and maritime, alleges as follows:

I. That the steamboat Sabine, whereof N. C. Selby late was master, left the port of Camden, Arkansas, about 4 o'clock on the evening of Monday, 5th of February, 1872, bound on a voyage to the port of New Orleans, on the river Mississippi, having on board a part of her cargo, and procured on her voyage down, at various intermediate points, different quantities of cotton, hides, and beeswax, amounting in all to about 1,571 bales of cotton and 15 passengers, all destined for New Orleans, and that at the time of the departure of his said vessel on her said voyage she was fully manned and equipped with skilful pilots and officers in charge, and was at the time a tight, staunch, and well-built steamer, of the burden of 400 tons, enrolled and licensed to pur-
3 sue the coasting trade, having been built and launched at Jeffersonville, Indiana, in December, 1871.

II. That on Sunday morning, 11th of February, 1872, between the hours of two and three o'clock a. m., the night being clear and starlight, and when at or near Twelve Mile Point, above New Orleans, on the river Mississippi, and while libellants' said steamboat Sabine was proceeding on her voyage and keeping nearest to the left bank of the river, and in the usual and customary channel for descending steamers,

the pilot saw the red signal of a steamer distant about one mile, and in the bend on the right bank of the river, an unusual course for an ascending steamer, and immediately afterwards gave two blasts of his steam-whistle to keep to the larboard, to which he received no answer, then slowed his engines, and immediately afterwards he gave two more blasts of his steam-whistle, which was crossed by one from the ascending steamer. At this time the boats were not more than 300 yards apart, and the pilot of libellants' boat stopped and reversed her engines, and commenced backing strong and pulling his wheel to the lar-
4 board, in order to keep the ascending boat from running into him, and in about a minute and a half afterwards the steamer, which proved to be the Richmond, bound on a voyage from New Orleans to St. Louis, ran into and struck the steamer Sabine on the starboard side, between the derrick and forward chock, knocking overboard a large portion of her cargo, consisting of cotton, part of which fell on the larboard side of the Richmond, and breaking and crushing the guards and hull of the Sabine, so that she filled with water and sunk in about five minutes thereafter in twenty feet of water, and is, together with her stores and freight, entirely lost to your libellants.

III. That the steamboat Richmond is a very large and powerful steamer, of more than 2,000 tons burden, and was at the time of her collision with libellants' said boat going at the rate of between ten and twelve miles an hour, and handled very unskilfully by those in charge of her.

IV. That at the time of said collision there was abundance of room for the Richmond to have passed on the right of libellants' said steamer Sabine, the river being very wide and entirely free from obstruc-
5 tions at that point, and the officers and crew of libellants' said vessel did everything in their power that they could possibly do to avoid said collision, but the steamboat Richmond having great speed and power, libellants' said steamer could not possibly avoid her, and that it was by law the duty of the said steamboat Richmond to have sounded the first whistle at a distance of 800 yards, she being the ascending boat, which she did not do, and that said collision resulted wholly from gross neglect, mismanagement, carelessness, and unskillfulness of the officers and crew of the steamer Richmond, and without any fault on the part of the officers or crew of libellants' boat.

V. That libellants have sustained damages in the full sum of thirty seven thousand five hundred dollars ($37,500), thirty thousand dollars of which is for the value of the steamboat Sabine, sixty-three hundred dollars for the loss of freight and charges on the cargo on board at the time of the collision, and which their boat would have earned on delivering said cargo in New Orleans, which she would have done had
6 she not been sunk and destroyed by said collision, caused as stated above, and twelve hundred dollars of which is for stores, etc., lost with the boat, all of which will more fully appear by reference to the detailed bill annexed and made part hereof.

VI. That all and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this honorable court.

Wherefore libellants pray that process in due form of law, and according to the course of this honorable court in causes of admiralty and maritime jurisdiction, may issue againt said steamboat Richmond, her tackle, apparel, machinery and furniture, and that all persons having or pretending to have any interest therein be admonished to appear and answer the matters aforesaid, and after due proceedings had, that this

honorable court will be pleased to decree for the claim and damages aforesaid, with five per cent. interest from the 11th of February, 1872, and that said steamboat Richmond be condemned and sold to pay the same with all costs of suit; and libellants pray for such other and further relief and remedy as the nature of the case may require and this court is competent to give.

(Signed) SARAH C. SHIRLEY,
7 By her agent and attorney in fact, JNO. T. SHIRLEY.
(Signed) AMERICA B. SELBY,
By her husband, N. C. SELBY.
(Signed) RICHARD FULLER.
(do.) BENTINCK EGAN AND
R. H. MARR, *Proctors.*

Sworn to and subscribed before me this 16th February, 1872.
K. LOEW, *N. S. C.*

NEW ORLEANS, *February* 15, 1872.

Steamer Richmond and owners to Steamer Sabine and owners, Dr.

To am't of value of steamer Sabine	$30,000 00
" " freight and charges, and crew's wages	6,300 00
" " store and expense bills	1,200 00
	$37,500 00

Let admiralty process issue as prayed for.
February 16, 1872.

K. LOEW, *D'y Clerk.*

The claim and answer of Nat. S. Green.—Filed February 19, 1872.

SARAH C. SHIRLEY ET AL.
versus
STEAMBOAT RICHMOND. } No. 9822.

To the Hon. E. H. Durell, judge of the district court of the United
8 States for the district of Louisiana.

And now comes Nat. S. Green, master of the steamboat Richmond, and for answer to the libel of Mrs. Sarah C. Shirley et als. vs. Steamboat Richmond, doth allege and articulately propound as follows, to wit:

That he, said Nat. S. Green, of Memphis, Tenn.; John N. Boffinger, of St. Louis, Mo.; Theodore Lavielle, of St. Louis, Mo.; Stillwelle, Rouel & Co. (consisting of D. R. Rouel, Sam'l L. Stillwelle and Enoch Stillwelle), of St. Louis, Mo.; Carter & Coon (consisting of Walker R. Carter and J. H. Coon), of St. Louis, Mo., are the true and bona fide owners of the steamer Richmond, and that no other persons is owner; that this respondent is master of said steamboat, and as said master and part owner is the lawful bailee thereof, and entitled to file this answer and claim and cross-libel for himself and co-owners.

First. To the 1st article of said libel he says that he has no knowledge when the Sabine left Camden, Ark., nor of what cargo she then had, nor of what cargo she afterwards took on; nor of how many passengers she had; he admits that she is of four hundred tons
9 burthen and he admits that at the time of the collision she had on about sixteen hundred bales of cotton; he does not know

whether she was fully manned and equipped, and he requires proof thereof; he specially denies that she had skilful pilots and officers on her at the time, but says that they were careless, negligent, and unskillful; he does not believe said steamboat to have been a staunch boat, and therefore denies same.

Second. To article 2nd of libel he saith that said article is falsely and untruly stated; he denies that said night was clear and starlight; he denies that said steamboat Sabine was, at the time stated, in the usual and customary place for descending boats; denies that the Richmond was in an unusual course for an ascending boat; denies that the Sabine gave two blasts of her whistle as stated; denies the statement that the Richmond did not blow her whistle till within three hundred yards; denies that the Sabine blew the two whistles the second time, as alleged; denies that the Sabine commenced backing strong; does not believe she backed at all. He admits that the Sabine was pulled to the lar-
10 board side by her pilot or by the eddy, when she had gone into it, and he alleges the fact to be that she was pulled so much to the larboard as to run into the Richmond, striking the Richmond on the larboard side about ten feet aft of her stem, the bow of the Sabine striking the Richmond a glancing lick. He denies that the Richmond run into the Sabine at all, and denies that the boats came together as alleged. He denies that the Sabine guards were crushed or that the hull was at all injured or broke; admits that she sunk in about twenty feet water; denies that said boat is entirely lost.

Third. To article 3d he admits that the Richmond is a large and powerful boat; true, he denies that she was going at the rate of ten or twelve miles an hour when the collision took place, and avers the fact to be that she was backing and had sternway when the Sabine ran into her, and he denies that those in charge of the Richmond handled her unskillfully, but alleges that she was most carefully and skillfully handled.

Fourth. To article 4th of libel he saith that the same is in the
11 most part and truly stated and he denies the same as stated. He denies that at the time of the collision there was a wide and unobstructed river between the Richmond and the bank on the right going up, and avers that she was one hundred yards of the bank, to the right, going up, when the Sabine struck her, and that the Sabine had near a mile of unobstructed width of river to her right going down, and that she should have avoided the collision and could readily have done so; he denies that the Sabine blew first, but her alleges that the Richmond did sound the signal first to keep to the right, one blast of the whistle more than eight hundred yards distant; he denies that said collision resulted from the want of skill or care or attention on the part of the officers and crew of the Richmond, and alleges that said collision was wholly due to the fault and neglect and want of care and skill of the officers and crew of the Sabine.

Fifth. To article fifth of libel he saith that he has no personal knowledge of the values as therein reported; he says he believes they are grossly exaggerated, and denies the truth of said article.

12 Sixth. To article sixth of libel, the same is untruly and falsely stated.

Seventh. That the said S. Green, John Boffinger, Theodore Lavielle, Carter & Coun, and Stillwell, Powell & Co., owners of the steamboat Richmond, for a cross libel against the said Mrs. Sarah C. Shirley, Nathaniel C. Selby, and his wife America B. Selby, and Richard F. Fuller,

the libellants in said libel named, the owners of the steamboat Sabine, do allege and proceed as follows:

That on the 11th day of February, 1872, these said cross-libellants were the owners of the good steamboat Richmond, a vessel of more than 1,000 tons burthen, duly licensed and enrolled, and engaged in the business of commerce among the several States, and that for some time previous to said day said steamboat Richmond had been so owned and engaged; that on the afternoon of the 10th day of February, 1872, the said steamboat Richmond, then under the command of N. S. Green, left the wharf of the city of New Orleans with a very valuable cargo of merchandize and passengers, fully manned, officered, and equipped, with a competent and full crew of officers and men suitable to a vessel of her
13 class and size; that she then proceeded to the elevator in New Orleans and there took on 1,400 boxes of sugar additional to what she had on as her cargo; that she then left the elevator at about 2 a. m. on the 11th February, 1872, bound on a voyage to St. Louis, Mo., up the Mississippi River; that she crossed over to the right bank of the river and proceeded up the right bank in the usual course for ascending boats, running at the rate of about ten miles an hour. The night was not clear, but was not very dark; the signals of boats could be readily seen at the distance of a mile; the Richmond's signals were burning as required by law, and she had a proper watch and lookout kept on board, as is usual. That she had most competent and skillful and careful pilots in charge of the wheel of the said Richmond; that she proceeded up the right bank of the river without accident, until she reached a point opposite T. I Kennedy's house; at that point she commenced to make the crossing, as is the usual course of ascending boats, to the other side of the river, under 12 Mile Point.

14 After she had proceeded till she was about midway between Kennedy's house and the 12 Mile Point, near the left bank, within about 150 yards of the left bank, under the 12 Mile Point, her pilot discerned the lights of a descending boat, about one mile off, coming down stream around the point. The pilot of the Richmond immediately blew one whistle and hauled the Richmond closer in to shore; the descending boat then responded by two whistles; the pilot of the Richmond immediately stopped the engines of his boat, and commenced backing on both engines, and blew one whistle again, when about this time the other boat, which proved to be the Sabine, was blowing two whistles, the Richmond at the time still heading in for the left shore under the point and backing on both engines, when the Sabine struck her with her starboard quarter on the Richmond's larboard quarter, about ten feet from the stern of the Richmond, the bow of the Sabine scraping the side of the Richmond, starting the stern of the Richmond, breaking a knee, a plank stove in, and doing other damage to the Richmond. At the time of the collision seventy five bales of cotton
15 fell from the starboard guard of the Sabine unto the larboard guard of the Richmond, forward of the first stancheon, while other cotton fell into the river between the two boats. The Richmond had just acquired sternway by backing and immediately backed off from the Sabine; at this time both boats were headed for the shore; that, thereupon, the Richmond made several attempts to get the Sabine to shore, and did prevent her from turning over, and then took off a large part of her cargo and her passengers, tried to tow her into the shore, when she floated down and sank in above twenty feet of water.

Eighth. That the Richmond was pursuing her proper course making the crossing, and had reached the left bank within about one hundred

yards of it, and had partially strai'tened up when she saw that the Sabine was running out of her proper course, which should have carried her to the right hand, and on which side she had near a mile of free wide river. That the Richmond performed her duty as to the signals, and was nearing the point, as was proper; that the Sabine was out of her place, and instead of keeping in the channel she attempted to keep
16 the point and run down the left bank near the shore; that when the Sabine crossed the Richmond's whistle it would have been impossible for the Richmond to have altered her course so as to avoid the collision, for all she could do was to keep well into the shore, and the natural direction of *of* the Sabine would have carried her clear; that instead of acting as she ought to have done she attempted to run between the Richmond and the left bank of the river.

Ninth. Respondent is informed and believes that the Sabine was overloaded and unsafe and unmanageable, and as the wind was blowing a gale on the left shore she wished to avoid the middle of the river where the waves were high, and then, in attempting to avoid the waves, her pilot caused this collision by his want of skill and utter negligence. That had the Sabine not have been overloaded she would not have *have* sunk from so slight a blow; that her hull was not broken, but that the pressure may have raised her deck or driven in her outriggers and caused her to fill with water. That the accident was in no manner due to the fault of the Richmond's officers or crew.

17 Tenth. That the accident caused the Richmond to leak badly, and that she was forced to return to New Orleans, and give up her voyage and to lose her freight and passengers, and to lose several days at the city of New Orleans undergoing repairs; and that her expense during said time, and the loss of freight and passengers, and the expenses and delay at New Orlians while making her repairs, which all directly resulted from this collision, in all amount to the sum of twelve thousand dollars, as shown by the schedule hereafter filed and made part hereof; that the said collision is the same referred to in said libel; that the same, with all damages and loss, was caused solely by the negligence, inattention and want of skill of the steamboat Sabine, her officers and crew.

Eleventh. That all and singular these matters are true, and within the admiralty and maritime jurisdiction of this honorable court.

Wherefore these respondents pray that said original libel may be dismissed at the costs of libellants, and that process in due form of law, according to the course of this honorable court, may issue against
18 the said Mrs. Sarah C. Shirley, N. C. Selby, and his wife, America B. Selby, and Richard F. Fuller, on respondent's cross-libel, that they may be compelled to answer the matters aforesaid; and that they may be condemned to pay to said respondents the said damages, interests, and costs; and also, that they be required to give security in the usual amount and form to respond to such damages claimed in this cross-libel; and that this honorable court will fix a day within which said bond shall be given, and for costs and for such other and further relief as to right and justice may appertain and which the court is competent to grant in the premises.

(Signed) NAT. S. GREEN.
(Signed) GIVEN CAMPBELL,
(do.) BILLINGS & HUGHES,
Proctors.

Nat. S. Green, being duly sworn, and having subscribed said libel

saith that he is the agent of the other owners of the Richmond in this behalf, and that all the allegations in aforegoing answer and cross-libel are true.

ALFRED INGRAHAM,
Commissioner of the United States.

19 *Statement of damages sustained by steamer Richmond by reason of collision with steamer Sabine.*

Wages crew	1,750 00
Fuel	500 00
Bow, dock, and repair	1,050 00
Wharfage	110 00
Stores consumed	600 00
Loss freight-list	5,000 00
Loss passenger list	600 00
Survey and protest	40 00
Consumption oil, rigging, etc	100 00
Loss of time while repairing boat	2,250 00
	$12,000 00

Order of court on cross-libel.—February 19, 1872.

Let this cross-libel be filed and process issue as prayed for and let all action upon the original libel be suspended till the libellants, Sarah C. Shirley et al., give bond and security in the sum of $12,000.00 to respond in damages, and let such bond be furnished within one week from date.

February 19, 1872.

E. H. DURELL, *Judge.*

20 *Libel.—Filed Feb'y* 19, 1872.

United States district court, district of Louisiana.

THE MERCHANTS' MUTUAL INSURANCE CO.
vs.
STEAMBOATS RICHMOND & SABINE, THEIR ENGINES, MACHINERY, &c., N. S. Green & Nathaniel C. Selby, master. } No. 9823.

To the honorable the judge of the district court of the United States in and for the State of Louisiana, holding sessions in the city of New Orleans.

The Merchants' Mutual Insurance Company, a corporation duly chartered under the laws of Louisiana, and domiciled in the city of New Orleans, exhibit this their libel against the steamboat Richmond, whereof N. S. Green is now or lately was master, now lying in the port of New Orleans, and against her boats, tackle, apparel, furniture, engines, and machinery, and against the said N. S. Green, her master; and against the steamboat Sabine now in this district, within the jurisdiction of this court, whereof Nathaniel C. Selby is now or lately was master, and against her boats, tackle, apparel, furniture, engines, and ma-
21 chinery, and against the said N. C. Selby, her master, and against

all persons lawfully intervening for their interests in a cause of collision civil and maritime; and thereupon the said Merchants' Mutual Insurance Company allege and articulately propound as follows:

First. That the said steamboat Sabine, of more than twenty tons burthen, to wit, 400 tons burthen, on the 5th of February, 1872, left Camden, Arkansas, having on board a cargo of cotton and bound for the port of New Orleans.

Second. That the said steamboat Richmond, of more than twenty tons burthen, to wit, more than 2,000 tons burthen, left the port of New Orleans on the 10th day of February, 1872, having on board a cargo of assorted merchandize and bound for the port of St. Louis.

Third. That about half past two o'clock on the morning of the eleventh of February, 1872, the said steamboat Sabine, while descending the river Mississippi, near Twelve Mile Point, above New Orleans on the said river, collided with the said steamboat Richmond, which was
22 proceeding up the said river; that thereby a large quantity of the cotton on board of the said steamboat Sabine fell off of her into the river, and that a few minutes after the collision and from the effects thereof, the Sabine sank; that she drifted down *down* the stream about a mile and a half, and the Richmond towed her to where she now lies in about fifteen feet of water and about two hundred yards from the bank of said river.

Fourth. That by the sinking of the said steamboat Sabine and the other results of the said collision, one hundred and sixty-two bales of cotton on board of said Sabine, consigned to F. L. Airey & Co., became a total loss, and that said one hundred and sixty-two bales of cotton were insured by libellants at one hundred dollars per bale, and that said libellants have paid, as they were bound to do, to said F. L. Airey & Co. for said one hundred and sixty-two bales of cotton, said sum of one hundred dollars per bale, making in all the sum of sixteen thousand and two hundred dollars, and that by said payment libellants are subrogated to all the rights and right of action of said F. L. Airey & Co.

23 Fifth. That the said collision between the said steamboat Richmond and said steamboat Sabine was occasioned entirely by the gross mismanagement and by the fault and negligence and careless and unskilful navigation of both the officers & crew of the steamboat Richmond & the officers & crew of the steamboat Sabine, and that the loss of the aforesaid one hundred and sixty-two bales of cotton was directly the result thereof.

Sixth. That all and singular the premises are true, and within the admiralty and maritime jurisdiction of this honorable court.

Wherefore libellants pray that process in due form of law may issue against the said steamboat Richmond, her engines, machinery, boats, tackle, apparel and furniture, and against the said steamboat Sabine, her engines, machinery, tackle, apparel and furniture, and the said N. S. Green, master, & H. C. Selby, master, be cited to appear and answer, and that this honorable court will pronounce for the damages
24 aforesaid and decree the same to be paid out of the proceeds of the sale of said boats and out of the property of the said masters, with costs and five per cent. interest from 11th February, 1872, for such other and further relief and redress as to right and justice may appertain and as the court is competent to give in the premises.

(Signed) P. FOURCHY,

President Merchants' Mutual Insurance Co.

Sworn to & subscribed before me this 19th day of February, 1872.
(Signed) K. LOEW,
U. S. Comm'r.

(Signed) M. M. COHEN & ALBERT VOORHIES, *Proctors.*

Let admiralty process issue as prayed for.
February 19th, 1872.

J. A. CHARBONNET,
D'y Clerk.

Admiralty process issued February 19th, 1872, not returned by marshal.

Answer to cross-libel.—Filed February 29, 1872.

Now come America B. Selby and Nathaniel C. Selby, her husband, the latter appearing herein for the purpose of aiding, authorizing and assisting his said wife, Richard F. Fuller, all of New Albany, in the State of Indiana, and Mrs. Sarah C. Shirley, widow, of Louisville, Kentucky, and for answer to the cross-libel of Nat. S. Green and owners of the steamboat Richmond, herein filed and exhibited, allege and articulately propound as follows, viz:

First. That the said America B. Selby, Richard F. Fuller, and Sarah C. Shirley are the true and lawful owners of the steamboat Sabine, the said Mrs. Selby and Richard F. Fuller being owners each of one undivided fourth part of said boat, and the said Sarah C. Shirley being the owner of the one undivided half, and that no other person whomsoever is owner of said boat.

Second. That as to the matters in the seventh article of the answer of the said Nat. S. Green and others, which is the first article of said cross-libel, these appearers have no knowledge touching the departure of the Richmond, nor as to her cargo, or passengers, or officers, or crew, or how she was navigated below and up to Nine Mile Point; wherefore, neither confessing nor denying those things in said article propounded, of which they have no knowledge, they will insist on full proof of the same, so far as may be material to their interests.

That as to the remainder of the said article, to wit, that portion of it which professes to give a history of the navigation of the Richmond from the time she reached a point opposite to T. J. Kennedy's house, the same is untrue, and is therein untruly pleaded; and the truth is and was, and these appearers do so allege and propound—

That the Sabine was descending the Mississippi River, and was near the turning of the Twelve Mile Point, when her pilot discovered a single light—the red light—of a steamboat ascending the river in the bend on the left side of the river ascending, and holding close in the shore. That the position of the said boat was above the place at which boats intending to cross from the left to the right shore ascending betwen Nine Mile Point and Twelve Mile Point usually begin their crossing; and the pilot of the Sabine concluded that said boat did not intend to make the crossing, either because she had business at some landing on the left side ascending, or for some other reason preferred to keep up that side, as she well might have done with entire safety.

That a short time before the pilot of the Sabine discovered the red light, which afterwards proved to be the signal light on the larboard chimney of the Richmond, and when the Sabine was so far above Twelve Mile Point that the light of a boat below Twelve Mile Point ascending

could not have been seen by the pilot or by any other person on board the Sabine, a train of cars passed on the left side of the river, which was plainly heard on the Sabine, and about the same time the pilot of the Sabine heard a whistle which he supposed to be that of the train which had just passed. That at the time the pilot of the Sabine heard this whistle no boat was in sight of the Sabine; he had no knowledge of the vicinity of any boat, and it was at a time when an ascending boat
28 was not usually in that part of the river. That the ascending boats usually leave New Orleans about five o'clock in the evening and ought to be in the vicinity of Donaldsonville, some seventy miles above, at midnight or before.

That as soon as the Sabine had reached a position near the turning of the Twelve Mile Point, from which her pilot could see a boat below Twelve Mile Point, he perceived the red light of the Richmond, running up the left shore ascending, holding close into the bend on that side, a considerable distance above the place at which ascending boats usually begin to make the crossing when they intend to cross and to round Twelve Mile Point, and at too great a distance from the Sabine, at that time, for the exchange of signals; that the pilot of the Sabine did not suppose, and had no reason to suppose that the whistle which he had heard was the whistle of the boat whose red light he afterwards saw, because at the time he heard that whistle no light of a boat was visible, no boat was in sight, and no boat was near enough for the ex-
29 change of signals; and from the position in which the Richmond was at the time her light was first seen by the pilot of the Sabine, the pilot of the Sabine could have and did have no other idea than that the ascending boat was holding and intended to keep the left-hand shore going up, which would have been the opposite of the *opposite of the* course indicated by one blast of the whistle.

That, acting upon this, having heard nothing which he had understood or which he believed to be the signal of a boat, when the two boats were about the usual and proper distance, the pilot of the Sabine gave two blasts of his whistle, indicating to the ascending boat that the Sabine would keep down the right-hand shore, leaving the entire bend shore and the greater part of the width of the river free to the ascending boat. That no answer was made to this signal. That thereupon the pilot of the Sabine slowed his engines and repeated his signal—two blasts of his whistle—which was answered by a single blast
30 from the Richmond. That, thereupon, the engines of the Sabine were reversed and she was backed with full force, which was all that could then be done to avoid the collision.

That when the Richmond began to make her crossing from the bend side, she held almost straight across the river, and continued that course until the moment of the collision, so that her head was pointing to the shore. That the Sabine, before she commenced backing, was holding about the shape of the shore a short distance, from two hundred to two hundred and fifty yards before the turning of Twelve Mile Point; and at the moment of collision the head of the Sabine was down the stream, slightly inclined towards the right-hand shore, ascending.

That, in this position, the Richmond with her stem struck the Sabine on her starboard side near her bows. That the Sabine was loaded so that her guards were within some three or four inches of the
31 water, and the Richmond was so loaded that her guards were high out of the water, and her bow was from five to seven feet above the water. That the Richmond came with such force that her

stem cut through the guards and hull up to the capstan of the Sabine, and causing the Sabine to sink in a short time.

Third. That as to the matters in the eighth article of the answer, which is the second article of the cross-libel, the same are untrue and are therein untruly pleaded, and the truth is and was and these appearers do allege and propound—

That the Richmond, at the time she had reached a position from which her red light was seen by the pilot of the Sabine was not running the proper and usual course for an ascending boat if she intended to cross to the right-hand shore ascending and to round Twelve Mile Point, for she was at that time so far up the river and so near the left shore ascending that she could not have crossed to the right shore ascend-
32 ing and have rounded Twelve Mile Point without making *making* almost a straight crossing.

That the Richmond did not perform her duty as to signals. That the whole of the river is free to any boat navigating it. That the Richmond was not in a position indicating her intention to cross to the right side ascending when the signals of the Sabine were given. That, as she was then running the bend shore it would not have been prudent for the Sabine to have *to have* held over for that shore, as such a course would have brought the two boats nearer together. That no necessity of navigation required the Richmond to leave the bend shore; and if she had kept that shore while the Sabine kept the point side, as her signals indicated, the two boats would have passed safely and at a considerable distance from each other. That any place not already selected by the ascending boat was a proper place for the Sabine; and that the course of the Richmond, when she perceived that the Sabine was not in what the pilot of the Richmond considered her proper place, would have
33 been between the Sabine and the left-hand shore ascending, and at such a distance as to avoid collision with the Sabine.

Fourth. That the ninth article of the said answer, which is the third article of the cross-libel, the same is wholly untrue; and the truth is, and was, and appearers do so allege and propound—

That the Sabine was a new boat, staunch and strong; that she was not overloaded, but, on the contrary, could have carried safely and conveniently at least two hundred bales of cotton in addition to the cargo she had on board; that the Sabine was in no respect unsafe; that she was perfectly manageable; that there was no gale blowing at the time of the collision; that the Sabine was not navigated with *with* the view of avoiding the waves, but she was navigated expressly with reference to the course which the Richmond was running, and with the view of leaving the Richmond the bend side of the river, which she had apparently selected and was running; that the pilot on watch was competent; that the collision did not result from any want of skill or
34 any negligence on his part, and that it resulted solely from the fault and improper navigation of those in charge of the Richmond; that the blow which the Richmond struck the Sabine was not a slight one, but was a very violent one, which would have sunk any boat on the river, and which cut through the Sabine up to her capstan; that the blow did break and cut the hull of the Sabine, and nothing but the extra strength of the timbers of the Sabine, and the resistance offered by her timbers and capstan prevented the stem of the Richmond from cutting through the Sabine, and cutting off her entire bow; and that this collision resulted solely from the fault of those in charge of the Richmond.

Fifth. That the tenth article of said answer, which is the fourth ar-

ticle of said cross-libel, is untrue; that the injury to the Richmond was very slight; that these appearers have no means of knowing what the actual damage to the Richmond was, and they will require full proof of the same so far as their interests may require; that the
35 amount as stated in said article is greatly exaggerated, but whatever loss or damage may have resulted to the Richmond from the collision these appearers are in no manner answerable for the same; and that said loss and damage, whatever may be the amount thereof, was not caused by any negligence or inattention or want of skill on the part of the steamboat Sabine, or her officers or crew, and the same was caused solely by the fault of the steamboat Richmond and of her officers and crew.

Sixth. That the eleventh article of said answer, being the fifth article of said cross-libel, is not true.

Seventh. That these appearers deny the truth of the several articles of the answer which do not constitute any part of the cross-libel, and they reiterate and repeat and allege to be true each and all of the articles in their original libel propounded.

Eighth. That all and singular the premises are true.

Wherefore these appearers pray that this honorable court would be pleased to pronounce against the said cross-libel; to pronounce
36 in favor of these appearers as prayed for in their original libel; to condemn the said cross-libellants in costs, and otherwise right and justice to administer in the premises. And as in duty, &c.

N. C. SELBY,
For America B. Selby.
R. F. FULLER.
S. C. SHIRLEY,
By her agent and attorney in fact, JNO. T. SHIRLEY.

Sworn to and subscribed before me this 29th day of February, 1872.
K. LOEW, *U. S. C.*

R. H. MARR and BENTRICK EGAN.
Proctors.

The President of the United States of America to the marshal of the district of Louisiana, greeting:

You are hereby commanded to summon Nathaniel C. Selby, master of the steamboat Sabine, to comply with the demand of the Merchants' Mutual Insurance Company contained in the libel of which a copy ac companies this citation, or to deliver his answer to the same in the
37 office of the clerk of the district court of the United States of America for the district of Louisiana, holding session in the city of New Orleans, in ten days after the service hereof, or judgment will be rendered against him by default, which delay is increased one day for every ten miles the defendant's residence is distant from New Orleans, the place where the court is held, and that you make due return hereof on the 1st Monday of March, 1872.

Witness the honorable Edward H. Durell, judge of the said court, at the city of New Orleans, this 19th day of February, A. D. one thousand eight hundred and seventy-two.

[SEAL.] (Signed) J. A. CHARBONNET,
D'y Clerk.

(Endorsed:) No. 9823. U. S. district court, New Orleans. Merchants Mutual Insurance Co. vs. St'boats Richmond & Sabine & N. S. Green & N. C. Selby. Citation.

Marshal's return.

Received this 20th day of February, 1872, and on the 20th day of February, 1872, served copies of the within citation, plaintiff's petition and documents annexed, on the within named N. C. Selby,
38 in the manner following, to wit, by handing the same to him in person.

New Orleans, Feb. 21st, 1872.

S. W. REED,
D'y U. S. Marshal.

The President of the United States of America to the marshal of the district of Louisiana, greeting:

You are hereby commanded to summon N. S. Green, master of the st'b't Richmond, to comply with the demand of the Merchants' Mutual Insurance Co. contained in the libel of which a copy accompanies this citation, or to deliver his answer to the same in the office of the clerk of the district court of the United States of America for the district of Louisiana, holding session in the city of New Orleans, in ten days after the service hereof, or judgment will be rendered against him by default, which delay is increased one day for every ten miles the defendant's residence is distant from New Orleans, the place where the court is held; and that you make due return hereof on the 1st Monday of March, 1873.

Witness the honorable Edward H. Durell, judge of the said
39 court, at the city of New Orleans, this 19 day of February, A. D. one thousand eight hundred and seventy-two.

[SEAL.] (Signed) J. A. CHARBONNET,
D'y Clerk.

(Endorsed:) No. 9823. U. S. district court, New Orleans. Merchants' Mutual Insurance Co. vs. St'boats Richmond & Sabine, N. S. Green & N. C. Selby. Citation.

Marshal's return.

Received this 20 day of February, 1872, and on the 20th day of February, 1872, served copies of the within citation, plaintiff's petition and documents annexed, on the within named N. S. Green, in the manner following, to wit, by handing the same to him in person.

New Orleans, Feb. 21st, 1872.

S. W. REED,
D'y U. S. Marshal.

Intervening libel.

United States district court, district of Louisiana In admiralty.

THE MERCHANTS' MUTUAL INSURANCE CO.
vs.
STEAMBOAT RICHMOND, HER ENGINES,
40 etc., and Steamboat Sabine, her engines, etc., and against N. S. Green, master, and Nathaniel C. Selby, master.

The intervening libel of Lehman, Newgass & Co., composed of Emmanuel Lehman, Meyer Lehman, Henry Abraham and B. Newgass, of New Orleans, against the steamboat Richmond, now lying in the port of New Orleans, whereof N. S. Green is now, or lately was, master, and against her boats, tackle, apparel, and furniture, and her engines and machinery, and against the said N. S. Green, her master; and against the steamboat Sabine, whereof N. C. Selby is now, or lately was, master, and against her boats, tackle, apparel, furniture, engine, and machinery, and against the said N. C. Selby, her master; and against all persons lawfully intervening for their interest, in a cause of collision, civil and maritime.

And thereupon the said Lehman, Newgass and Co. allege and articulately propound as follows:

First. That the said steamboat Sabine, of more than twenty
41 tons burthen, to wit, of four hundred tons burthen, on the 5th day of February, 1872, left Camden, Arkansas, having on board a cargo of cotton, and bound for the port of New Orleans.

Second. That the said steamboat Richmond, of more than twenty tons burthen, to wit, of more than two thousand tons burthen, left the port of New Orleans on the 10th day of February, 1872, having on board a cargo of assorted merchandise and bound for the port of St. Louis.

Third. That at about half-past two o'clock on the morning of the 11th of February, 1872, the said steamboat Sabine, while descending the river Mississippi near 12 Mile Point, collided with the said steamboat Richmond, which was proceeding up the said river. That thereby a large quantity of the cotton on board of the said steamboat Sabine fell off of her into the said river, and a few minutes after the collision, and from the effects thereof, the Sabine sank. That she drifted down stream about a mile and a half, and the Richmond towed her to where she now lies, in fifteen feet of water, about two hundred yards from the bank of said river.

Fourth. That by the sinking of the said steamboat Sabine, and
42 the other results of the said collision, four hundred and eleven bales of cotton on board of said Sabine became a loss, thereby causing to your libellants loss and damage to the extent of the value thereof, viz, at one hundred and five dollars per bale, viz, forty-three thousand one hundred and fifty-five dollars, and that the said cotton is more fully described in the schedule hereto annexed marked A, made a part hereof.

Fifth. That the said collision between the said steamboat Richmond and the said steamboat Sabine was occasioned entirely by the gross mismanagement and by the fault and negligence and carelessness and unskillful navigation of both the officers and crew of the steamboat

Richmond and the steamboat Sabine, and that the loss of the aforesaid bales of cotton was directly the result thereof.

Sixth. That all and singular the premises are true and within the admiralty and maritime jurisdiction of this honorable court.

Wherefore libellants pray leave to file this intervening libel, and
43 that process in due form of law may issue against the said steamboat Richmond, her engines, machinery, tackle, apparel and furniture, and against the said N. S. Green, her master, and against the said steamboat Sabine, her engines, machinery, tackle, apparel and furniture, and against the said N. C. Selby, her master; that the said N. S. Green, master of said Richmond, and said N. C. Selby, master of the said Sabine, be cited to appear and answer; and that this honorable court will pronounce for the damages aforesaid and decree the same to be paid with interest at 5 per cent. per annum, from 11th day of February, 1872, out of the proceeds of the sale of said boats, and out of the property of said masters, and for such other and further relief and redress as to right and justice may appertain, and as the court is competent to give in the premises.

LEHMAN, NEWGASS & CO.

Sworn and subscribed to before me this twentieth day of February, 1878.

K. LOEW,
U. S. Comm'r.

M. M. COHEN & ALBERT VOORHIES,
Proctors.

44 *Order.*

Let this libel of intervention be filed.
Feb'y 20, 1872.

E. H. DURELL, *Judge.*

(Endorsed:) No. 9823. United States district court, district of Louisiana. In admiralty. Merchants' Mutual Insurance Co. versus Steamboats Richmond and Sabine, their engines. etc., and N. S. Green and Nathaniel C. Selby, masters. Intervening libel of Lehman, Newgass & Co. M. M. Cohen & A. Voorhies, proctors. Filed Feb'y 20, 1872. K. Loew, d'y clerk.

The President of the United States of America to the marshal of the district of Louisiana, greeting:

You are hereby commanded to summon N. C. Selby, master of the st'b't Sabine, to comply with the demand of Lehman, Newgass & Co. contained in the libel of which a copy accompanies this citation, or to deliver his answer to the same in the office of the clerk of the dis-
45 trict court of the United States of America for the district of Louisiana, holding session in the city of New Orleans, in ten days after the service hereof, or judgment will be rendered against him by default, which delay is increased one day for every ten miles the defendant's residence is distant from New Orleans, the place where the court is held. And that you make due return hereof on the 1st Monday of March, 1872.

Witness the honorable Edward H. Durell, judge of the said court, at the city of New Orleans, this 20 day of February, A. D. one thousand eight hundred and seventy-two.

[SEAL.] (Signed) J. A. CHARBONNET,
D'y Clerk.

...D.

...New Orleans. Merchants'
... & Sabine. Citation.

Marshal's return.

...ary, 1872, and on the 26th day of Feb-
... of the within citation, plaintiff's petition,
... on the within named N. C. Selby in the
..., to wit, by handing the same to him in person.
... Feb. 26th, 1872.

S. W. REED,
D'y U. S. Marshal.

...President of the United States of America to the marshal of the district of Louisiana, greeting:

...are hereby commanded to summon N. S. Green, master of the ...Richmond, to comply with the demand of Lehman, Newgass ..., contained in the libel of which a copy accompanies this citation, ... deliver his answer to the same in the office of the clerk of the dis... court of the United States of America for the district of Louisiana, ...holding session in the city of New Orleans, in ten days after the service ...hereof, or judgment will be rendered against him by default, which delay ...is increased one day for every ten miles the defendant's residence is distant from New Orleans, the place where the court is held. And that you make due return hereof on the 1st Monday of March, 1872.

47 Witness the honorable Edward H. Durell, judge of the said court, at the city of New Orleans, this 20th day of February, A. D. one thousand eight hundred and seventy-two.

[SEAL.] (Signed) J. A. CHARBONNET,
D'y Clerk.

(Endorsed:) No. 9423. U. S. district court, New Orleans. Merchants' Mutual Insurance Co. vs. St'b'ts Richmond & Sabine, &c., &c. Citation.

Marshal's return.

Received this 21 day of February, 1872, and on the 26th day of February, 1872, served copies of the within citation, plaintiff's petition, and documents annexed, on the within named N. S. Green in the manner following, to wit, by handing the same to J. F. Mebord, clerk of steamer Richmond, on board of said boat.

New Orleans, Feb. 26th, 1872.

S. W. REED,
D'y U. S. Marshal.

Intervening libel.

United States district court, district of Louisiana. In admiralty.

48 MERCHANTS' MUTUAL INSURANCE CO.
vs.
STEAMBOAT RICHMOND, HER ENGINES, ETC., and Steamboat Sabine, her engines, etc., and against N. S. Green, master, and Nathaniel C. Selby, master. } No. 9823.

The intervening libel of Jurey & Gillis, a commercial firm domiciled in the city of New Orleans, and composed of Lewis C. Jurey and Marcellin Gillis, against the steamboat Richmond, now lying in the port of New Orleans, whereof N. S. Green is now or lately was master, and against her boats, tackle, apparel, and furniture, and her engines and machinery, and against the said N. S. Green, her master, and against the steamboat Sabine, whereof N. C. Selby is now or lately was master, and against her boats, tackle, apparel, furniture, engine, and machinery, and against the said N. C. Selby, her master, and against all persons lawfully intervening for their interest, in a cause of collision, civil and maritime.

And thereupon the said Jurey and Gillis allege and articulately propound as follows:

49 First. That the said steamboat Sabine, of more than twenty tons burthen, to wit, of four hundred tons burthen, on the 5th day of February, 1872, left Camden, Arkansas, having on board a cargo of cotton and bound for the port of New Orleans.

Second. That the said steamboat Richmond, of more than twenty tons burthen, to wit, of more than two thousand tons burthen, left the port of New Orleans on the 10th day of February, 1872, having aboard a cargo of assorted merchandise, and bound for the port of St. Louis.

Third. That about half past two o'clock on the morning of the 11th of February, 1872, the said steamboat Sabine, while descending the river Mississippi, near 12 Mile Point, collided with the said steamboat Richmond, which was proceeding up the said river; that thereby a large quantity of the cotton on board of the said steamboat Sabine fell off of her into the said river, and a few minutes after the collision, and from the effects thereof, the Sabine sank; that she drifted down stream about a mile and a half, and the Richmond towed her to where she
50 now lies, in fifteen feet water, about two *two* hundred yards from the bank of said river.

Fourth. That by the sinking of the said steamboat Sabine, and the other results of the said collision, ninety-nine bales of cotton, on board of said Sabine became a loss, thereby causing to your libellants loss and damage to the extent of the value thereof, viz, ten thousand eight hundred and ninety dollars, and that the said cotton is more fully described in the schedule hereto annexed, marked A, made a part hereof.

Fifth. That the said collision between the said steamboat Richmond and the said steamboat Sabine was occasioned entirely by the gross mismanagement, and by the fault, and negligence, and carelessness, and unskillful navigation of both the officers and crew of the steamboat Richmond and the steamboat Sabine, and that the loss of the aforesaid bales of cotton was directly the result thereof.

...1872, and on the 26th day of ... citation, plaintiff's petition, ... within-named N. S. Green in the ... the same to J. T. Mebord, ... on board of said boat.

S. W. REED,
D'y U. S. Marshal.

... States of America to the marshal of the ... Louisiana, greeting:

... to summon N. C. Selby, master of the ... demand of Janey & Gillis contained in ... this citation, or to deliver his an... the clerk of the district court of the ... of Louisiana, holding session ... days after the service hereof, or judg... him by default, which delay is increased ... defendant's residence is distant from ... court is held; and that you make due ... first Monday of March, 1872.

... honorable Edward H. Durell, judge of the said ... of New Orleans, this 20th day of February, A. ... hundred and seventy-two.

... (Signed) J. A. CHARBONNET,
D'y Clerk.

(Endorsed:) No. 3823. U. S. district court, New Orleans. Merchants' ... Insurance Co. vs. St'r Richmond & Sabine, etc. Citation.

Marshal's return.

Received, this 21st day of February, 1872, and on the 26th day of February, 1872, served copies of the within citation, plaintiff's petition, and documents annexed, on the within-named N. C. Selby in the manner following, to wit, by handing the same to him in person.

New Orleans, Feb'y 26, 1872.

S. W. REED,
D'y U. S. Marshal.

Libels of intervention similar to those of Lehman, Newgass & Co., & Janey & Gillis, and growing out of the same cause of action, were filed in this suit on 21, 23, 24, 26 February, 6 March, and 11 and 24 May, 1872, by the parties hereinafter named; and as the pleadings are all alike, I will here give only the names of the several parties and the amount claimed by each of them, viz:

B. M. Howell & Co	$3,024
Bussey & Co	3,360
Musson, Prestidge & Co	100
Stewart & McCarthy	5,200
Winston, Morrison & Co	200
Johnson & Goodrich	400
Clapp, Brothers & Co	1,100

[illegible] Nathaniel C. [illegible], the [illegible] his [illegible] Mer- [illegible] against [illegible] N. S. Green [illegible] respectively allege [illegible] to wit:

[illegible] Sarah C. Shirley [illegible] the said Fuller [illegible] and Mrs. Shirley owning one- [illegible] whomsoever is owner of said boat, or [illegible] as far as the underwriters, who have risks on [illegible] have become interested by the sinking and [illegible] of said boat; and that Nathaniel C. Selby was master of [illegible] and was in command at the time of the collision with the [illegible], by which the Sabine was sunk.

[illegible] the first article of the said libel is true; that claimants believe [illegible] article of said libel to be true; and the third article of said [illegible] substantially true, except that the Sabine has been raised, and [illegible] to the port of New Orleans, where she is now moored in a greatly [illegible] condition.

[illegible] is true so far as it relates [illegible] of the cotton; but claimants [illegible] said cotton, nor of any in- [illegible] of any loss or damage on the [illegible] as the same.

[illegible] denying that of which they are [illegible] full proof of the fact of loss [illegible] the extent of the same.

[illegible] said libel is not true; and the truth is and [illegible] propound, that said collision was not [illegible] carelessness, or unskillful navi- [illegible] officers or crew of the Sabine, but that the [illegible] from the fault of the Richmond and [illegible] that neither the steamboat Sabine nor claim- [illegible] damage which may have been occasioned

[illegible] of said libel is not true.

[illegible] answer in this behalf claimants allege and [illegible] terms of the bill of lading and contract of [illegible] which the said cotton was shipped, the dan- [illegible] and collision were specially excepted; [illegible] loss or damage may have been sustained, or whatever [illegible] done to the said cotton, the same was the result [illegible] excepted causes, that is, collision; that claimants would [illegible] said cotton safely, at the port of New Orleans, but [illegible], in the same condition in which it was shipped, and [illegible] delay, but for the said collision; and that claimants are not [illegible] libellants for any of the consequences of said collision, or [illegible] failure to deliver the said cotton.

[illegible] claimants pray that this honorable court would be pleased to pronounce against the said libel to condemn libellants in costs, and otherwise right and justice to administer in the premises; and as in duty bound, etc.

(Signed) R. A. FULLER,
N. C. SELBY,
For A. B. Selby.
S. C. SHIRLEY,
By her agent and attorney in fact, JNO. T. SHIRLEY.

61 Sworn to and subscribed before me, this 6th March, A. D. 1872.

J. A. CHARBONNET,
D'y Clerk.

R. H. MARR & B. EGAN,
Proctors.

Nathaniel C. Selby, late master of the steamboat Sabine, now comes and adopts the foregoing answer of the owners of the Sabine as his own, and alleges the same to be true, and that he can make no other or different answer to the libel and demand of libellants against him in personam.

N. C. SELBY.

MARR and EGAN,
Proctors.

It is agreed that this shall be filed and received as the answer of the claimants of the Sabine, and N. C. Selby, the master of the Sabine, as well to the libel of the Merchants' Mutual Insurance Company, No. 9823 of the docket, as to each and all of the several intervening libels filed under that number.

M. M. COHEN,
Proctor for Mer. Mut. Ins. Co. and Interveners.
ALBERT VOORHIES,
Proctor.

62 *Answer.—Filed 8th January*, 1873.

United States district court. In admiralty.

MERCHANTS' MUTUAL INSURANCE COMPANY
vs.
STEAMBOATS RICHMOND, SABINE, ET AL. } No. 9823.

Now comes the claimants of the steamboat Richmond, and for answer to the libel of the Merchants' Insurance Company aforesaid against the said steamboat Richmond, do allege and articulately propound as follows, to wit:

First. To article first of libel: That they do not know whether same is true or not, and therefore require proof.

Second. To article 2d of libel: That same is substantially true.

Third. To article third of libel: That said article is substantially true.

Fourth. To article 4th of libel: That they have not sufficient knowledge or information concerning the allegations in said fourth article of the libel to say whether the same are true or false, but they believe from their information that said article is falsely and untruly stated, and they therefore deny the same and require strict proof.

63 Fifth. To article 5th of libel: That said article, in so far as it charges or alleges said collision to have been occasioned by the mismanagement, fault, negligence, carelessness, and unskillful navigation of the officers and crew of the steamboat Richmond, is totally false, and they deny that any one has incurred any loss by reason of the fault of the officers or crew of the Richmond, and they say that said collision was caused solely by the carelessness, negligence, unskillfulness, and mismanagement of the officers and crew of the steamboat Sabine, who are to blame for it.

Sixth. To article 6th of libel: That same is untruly stated.

Seventh. That all and singular the premises are true.

Wherefore respondents pray that this honorable court will pronounce against the demand of libellant as set forth in said libel, and dismiss the same at the costs of libellant, and decree the discharge of the said steamboat and the cancellation of her release bond, and for such general and equitable relief as the case may admit of, and which the court may grant.

GIVEN CAMPBELL,
Proctor.

64 *Answer to interventions.—Filed 9th January*, 1873.

United States district court. In admiralty.

MERCHANTS' MUTUAL INSURANCE COMPANY
vs.
STEAMBOATS RICHMOND, SABINE, ET AL. } No. 9823.

Now come the claimants of the steamboat Richmond and for answer to the interventions of Richard Flower & Co., Levy & Haas, W. J. Frierson & Co., Stewart & McCarthy, Broadnax & Campbell, B. M. Howell & Co., Bolsan & Bro's, Johnson & Goodrich, Winston, Morrison & Co., N. W. Farley & Co., Musson, Prestidge & Co., Penn, Pace & Simmons, John Phelps & Co., Randall & Co., L. R. Higgins & Co., Campbell & Strong, A. Levy, Jurey & Gillis, T. & I. Henderson, Lehman, Newgass & Co., Bussey & Co., Clapp, Bro's & Co., Payne, Dameron & Co., in aforesaid cause against the steamboat Richmond, do allege and articulately propound as follows, to wit:

First. To article 1st in each of said intervening libels: That they do not know whether same are true or not, and therefore require proof.

65 Second. To article 2d in each of said intervening libels: That 2d article is substantially true.

Third. To article 3d in each of said intervening libels: That said article is substantially true.

Fourth. To article 4th in each of said intervening libels: That they have not sufficient knowledge or information con*tain*ing the allegations in said article of each intervening libel to say whether the same are true or false; but they believe, from information, that said articles are false and untruly stated, and they therefore deny said articles, and require strict proof.

Fifth. To article 5th in each of said intervening libels: That said articles, in so far as they charge or allege said collision to have been occasioned by the mismanagement, fault, negligence, carelessness, and unskillful navigation of the officers and crew of the steamboat Richmond, is totally untrue; and they deny that any one has incurred any loss by reason of the fault of the officers and crew of the Richmond as alleged; and they say that said collision was caused solely by the carelessness, negligence, unskillfulness, and mismanagement of the

66 officers and crew of the Sabine, who alone are to blame for it.

6th. To article 6th of libels: That same is untruly stated.

Seventh. That and singular the premises are true.

Wherefore respondents pray that this honorable court will pronounce against the respective demands of intervening libellants as set forth in these respective interventions, and dismiss them, so far as they proceed against the steamboat Richmond and master, with costs, and for such other and further relief and remedy as to right and justice may appertain, and which the court is competent to grant in the premises.

GIVEN CAMPBELL,
Proctor.

Order consolidating suit with 9823.

MERCHANTS' MUTUAL INSURANCE CO.
vs.
STR. RICHMOND & STR. SABINE.

On motion of plaintiffs and intervenors, through their counsel, M. M.

Cohen & A. Voorhies, suggesting that said suit grows out of the collision between the two steamers impleaded, and that the owners
67 of the str. Sabine have libelled the Richmond for damages growing out of said collision, and, vice versa, the Richmond has libelled the Sabine, No. 9822 of said docket; that the issues in both cases are, to considerable extent, the same, and that the same witnesses are to be heard to the same effect; that costs and delays will be avoided by consolidating said cases, ordered, that the plaintiffs and defendants on the latter case show cause, on 20th instant, at 11 a. m., why these cases should not be consolidated.

And the proctors for the Sabine and Richmond being present, the rule was taken up; and, after hearing counsel, the proctor for the Sabine objecting, it is ordered by the court that said causes be consolidated as prayed for.

Rule to annul order to give bond.—February 20th, 1872.

SARAH C. SHIRLEY ET AL.
vs.
ST'M'R RICHMOND. } 9822.

On motion of B. Egan & R. H. Marr, proctors for libellants in
68 the above cause, and on suggesting to the court that the cross-libel herein filed is not founded on a legitimate claim, or one that could be legally enforced; that its object is to prevent libellants from enforcing their just rights and demands against the Richmond by requiring them to give a large bond before they are allowed to proceed with their libel; therefore it is ordered by the court that claimants in the above cause do show cause, on Wednesday, 21st February, 1872, at 11 a. m., why the order requiring libellants to give a bond of $12,000 before proceeding with their suit to answer the demands contained in the cross libel herein filed should not be rescinded and annulled.

FEBRUARY 21, 1872.

By consent the rule of 20th instant is continued till the 23d.

SHIRLEY & AL.
vs.
STR. RICHMOND. } 9822.

FEBRUARY 23D, 1872.

The rule taken by libellants on 20th instant came up, R. H. Marr &
B. Egan for movers, E. C. Billings & Given Campbell for
69 def'ts in rule, when, after hearing argument, it is ordered that the time in which the libellants shall furnish the bond be extended for 10 days from Monday, the 26th instant.

Rule to sell the Sabine.—February 21th, 1872.

SHIRLEY & AL.
vs.
ST'R RICHMOND. } 9822.

MERCH'TS' M. INS.
vs.
RICHMOND & SABINE. } 9823.

On motion of E. D. Craig, proctor for the N. O. Wrecking & Salvage

Co., ordered, that all parties in interest show cause on Saturday, March 2d, 1873, at 11 a. m., why the steamboat Sabine, her tackle, apparel, and furniture, be not sold on 10 days' notice.

Order on rule of 27th Feb'y, 1872.

SHIRLEY & AL. *vs.* ST'R RICHMOND. } 9822.

MERCH'TS' M. INS. CO. *vs.* ST'RS RICHMOND & SABINE. } 9823.

MARCH 2, 1872.

The rule taken by the Wrecking Co., on 27th ult'o, was called, E. D. Craig for relators, R. H. Marr & B. Egan for st'r Sabine, when,
70 after hearing evidence and counsel, it is ordered that the owners have until the 6th instant to bond the Sabine; otherwise, that an order of sale issue.

Motion to rescind or modify order to give bond.

SHIRLEY ET AL. *vs.* ST'R RICHMOND. } 9822.

Libellants in the above entitled cause now move the court to rescind or to modify the order requiring them to give bond and security in the sum of $12,000 upon the cross libel of the claimants of the Richmond, on the following grounds:

1st. Before the counter-claim of cross-libellants is excessive, as appears by the mere inspection of the same.

2. Because since the said order was made, the steamboat Sabine, which was at that time sunk and was supposed to be a total loss, has been raised and brought to the port of New Orleans where she now is safely moored, that said boat is subject to seizure on an admiralty warrant upon the cross-libel and affords ample security for any sum which
71 can possibly be reconvened in said cross-libel.

3d. Because said boat is now in the custody of the marshal and is about to be sold by the order of the court and proceeds will be brought into court for distribution, out of which the counter claim of cross-libellant can be fully secured.

4. Because since the said order was made, the testimony of almost every witness material to either party has been taken, and the cause is nearly ready for hearing and the practical effect of enforcing said order will be prevent a hearing, or further proceedings in the cause.

5th. Because said order is not in accordance with the 54th rule in admiralty.

Order.

Let the question be argued on to-morrow at 11 a. m.
March 6, '72.

E. H. DURELL, *Judge.*

Cohen & A. Voorhies, suggesting that said suit grows out of the collision between the two steamers impleaded, and that the owners
67 of the str. Sabine have libelled the Richmond for damages growing out of said collision, and, vice versa, the Richmond has libelled the Sabine, No. 9822 of said docket; that the issues in both cases are, to considerable extent, the same, and that the same witnesses are to be heard to the same effect; that costs and delays will be avoided by consolidating said cases, ordered, that the plaintiffs and defendants on the latter case show cause, on 20th instant, at 11 a. m., why these cases should not be consolidated.

And the proctors for the Sabine and Richmond being present, the rule was taken up; and, after hearing counsel, the proctor for the Sabine objecting, it is ordered by the court that said causes be consolidated as prayed for.

Rule to annul order to give bond.—February 20th, 1872.

SARAH C. SHIRLEY ET AL.
vs.
ST'M'R RICHMOND. } 9822.

On motion of B. Egan & R. H. Marr, proctors for libellants in
68 the above cause, and on suggesting to the court that the cross-libel herein filed is not founded on a legitimate claim, or one that could be legally enforced; that its object is to prevent libellants from enforcing their just rights and demands against the Richmond by requiring them to give a large bond before they are allowed to proceed with their libel; therefore it is ordered by the court that claimants in the above cause do show cause, on Wednesday, 21st February, 1872, at 11 a. m., why the order requiring libellants to give a bond of $12,000 before proceeding with their suit to answer the demands contained in the cross libel herein filed should not be rescinded and annulled.

FEBRUARY 21, 1872.

By consent the rule of 20th instant is continued till the 23d.

SHIRLEY & AL.
vs.
STR. RICHMOND. } 9822.

FEBRUARY 23D, 1872.

The rule taken by libellants on 20th instant came up, R. H. Marr &
B. Egan for movers, E. C. Billings & Given Campbell for
69 def'ts in rule, when, after hearing argument, it is ordered that the time in which the libellants shall furnish the bond be extended for 10 days from Monday, the 26th instant.

Rule to sell the Sabine.—February 27th, 1872.

SHIRLEY & AL.
vs.
ST'R RICHMOND. } 9822.

MERCH'TS' M. INS.
vs.
RICHMOND & SABINE. } 9823.

On motion of E. D. Craig, proctor for the N. O. Wrecking & Salvage

Co., ordered, that all parties in interest show cause on Saturday, March 2d, 1873, at 11 a. m., why the steamboat Sabine, her tackle, apparel, and furniture, be not sold on 10 days' notice.

Order on rule of 27th Feb'y, 1872.

SHIRLEY & AL. *vs.* ST'R RICHMOND. } 9822.

MERCH'TS' M. INS. CO. *vs.* ST'RS RICHMOND & SABINE. } 9823.

MARCH 2, 1872.

The rule taken by the Wrecking Co., on 27th ult'o, was called, E. D. Craig for relators, R. H. Marr & B. Egan for st'r Sabine, when,
70 after hearing evidence and counsel, it is ordered that the owners have until the 6th instant to bond the Sabine; otherwise, that an order of sale issue.

Motion to rescind or modify order to give bond.

SHIRLEY ET AL. *vs.* ST'R RICHMOND. } 9822.

Libellants in the above entitled cause now move the court to rescind or to modify the order requiring them to give bond and security in the sum of $12,000 upon the cross libel of the claimants of the Richmond, on the following grounds:

1st. Before the counter-claim of cross-libellants is excessive, as appears by the mere inspection of the same.

2. Because since the said order was made, the steamboat Sabine, which was at that time sunk and was supposed to be a total loss, has been raised and brought to the port of New Orleans where she now is safely moored, that said boat is subject to seizure on an admiralty warrant upon the cross-libel and affords ample security for any sum which
71 can possibly be reconvened in said cross-libel.

3d. Because said boat is now in the custody of the marshal and is about to be sold by the order of the court and proceeds will be brought into court for distribution, out of which the counter claim of cross-libellant can be fully secured.

4. Because since the said order was made, the testimony of almost every witness material to either party has been taken, and the cause is nearly ready for hearing and the practical effect of enforcing said order will be prevent a hearing, or further proceedings in the cause.

5th. Because said order is not in accordance with the 54th rule in admiralty.

Order.

Let the question be argued on to-morrow at 11 a. m.
March 6, '72.

E. H. DURELL, *Judge.*

Affidavit of R. F. Fuller.

Richard F. Fuller, one of the libellants and an owner of the Sabine, being duly sworn, deposes and says:

72 That since the order on the cross libel of the claimants of the Richmond was made the steamboat Sabine, which was at that time sunk in deep water, has been raised and brought to the port of New Orleans, where she now is safely moored.

That said boat is now in custody of the marshal and is about to be sold by order of this court and the proceeds will be brought into court for distribution.

That the owners of the Sabine are strangers at this port and are unable to give the bond required; that the counter claim of cross-libellants is excessive, and that the said boat or her proceeds will afford ample protection for any damages which can be recovered in said cross libel.

That the testimony of most of the persons who actually saw the collision, has already been taken and the cause is now nearly ready for hearing and can be fully prepared within a few days.

That an examination of said testimony will show that the claim
73 of the cross-libellants is excessive, and that there exists no sufficient cause for requiring bond of the owners of the Sabine because the testimony shows that the fault of the collision was with the Richmond and not with the Sabine.

R. F. FULLER.

Sworn to & subscribed before me this 6 March, 1872.

K. LOEW, *U. S. Com'r.*

Affidavit of N. C. Selby.—Filed March 7, 1872.

SHIRLEY & AL. *vs.* ST'R RICHMOND. } 9822.

Nathaniel C. Selby, being duly sworn, deposes & says:

That he was master of the st'b't Sabine, and that he is also att'y in fact for his wife, Mrs. America B. Selby, one of the owners of the Sabine; that shortly after the collision between the Sabine and Richmond the crew of the Sabine, under the direction of affiant, removed from the Sabine her cabin furniture, her blocks, tarpaulins, curtains, screws & riggings, and almost the entire outfit of the Sabine, and placed
74 the same for safety on board the Richmond; that the said property is of the value of about $5,000.

That on the arrival of the Richmond at New Orleans, affiant applied to the captain of the Richmond for the said property, and offered at the same time to pay the freight to the Richmond for bringing the same from the point of collision to New Orleans; that the captain of the Richmond delivered to affiant one load of mattrasses and carpets, but refused to deliver the balance, and that the said captain of the Richmond still retains in his possession or subject to his control, the remainder of said property, part of which he has stored, and the remainder, and much the larger and more valuable portion is still on board the Richmond; that no part of this property has been seized, and that it exceeds in value the entire damage to the Richmond resulting from the collision.

That all this property was new, the boat, the Sabine was also new, having been running about 60 days, and the cost of said property was something over $5,000.

N. C. SELBY.

Sworn to & subscribed before me this 7th March, 1872.
(Signed) K. LOEW, *U. S. Com.*

75 *Affidavit of J. McHaffie.—Filed 7 March*, 1872.

SHIRLEY & AL.
vs.
ST'R RICHMOND.

Jesse McHaffie, being sworn, says:
That he is a ship carpenter by trade; that he was employed on the 12th of February, 1872, to repair the stern and bow of the st'r Richmond after her collision with the steamer Sabine, by which the latter boat was sunk; that his bill for the whole work was $517; that affiant performed the whole with the assistance of his employees, and that no other work of that kind was performed on her.

JESSE McHAFFIE.

Sworn to & subscribed before me this 7th day of March, 1872.
J. A. CHARBONNET,
D'y Clerk.

Submission.—March 7, 1872.

SHIRLEY & AL.
vs.
ST'R RICHMOND. 9822.

The motion filed by the libellants on yesterday was called up, Marr & Egan for libellants, E. C. Billings & Given Campbell for
76 claimants, when, after hearing argument of counsel, the court took time to advise.

Order to sell the Sabine.—March 7, 1872.

SHIRLEY & AL.
vs.
ST'R RICHMOND. 9822.

MERCH'TS' MUT. INS. CO.
vs.
ST'R RICHMOND & SABINE. 9823.

The delay allowed the owners of the Sabine for bonding the vessel having expired, and no bond been proffered, on motion of E. D. Craig, proctor for the Wrecking Co., it is ordered by the court that the marshal sell the st'r Sabine, after 10 days' advertisement, and deposit the proceeds in the registry, subject to the further orders of the court.

Venditioni exponas issued March 8th, 1872, not returned by the marshal.

[illegible]

[illegible] 11, 1872.

[illegible] be furnished by the owners of the steamer [illegible], and that the same be filed within 10 days

[illegible] *Bond by the Sabine.—Filed 15th March*, 1872.

[illegible] STATES OF AMERICA,
District of Louisiana:

[illegible] all men by these presents, that we, S. C. Shirley, R. F. Fuller, [illegible] B. Selby & her husband, N. C. Selby, owners of the steamer [illegible] as principals, and Ch's Cavaroc, A. Chiapella, J. Tuyes, and Alf. [illegible], as sureties, are held and firmly bound unto the owners of the [illegible] Richmond, cross-libellants, in the sum of eight thousand dollars, the said sureties binding themselves each in the sum of two thousand dollars lawful money of the United States of America, for the payment whereof to the said cross-libellants, their heirs, executors, administrators, or assigns, we jointly and severally bind ourselves, our heirs, executors, and administrators, firmly by these presents. Witness our respective names and seals, hereunto affixed by us at New Orleans, this 14th day of March, one thousand eight hundred and seventy-two.

Whereas in suit 9822, Shirley et al. vs. The Steamer Richmond,
78 a cross-libel had lately been filed by the owners of the steamer Richmond, in consequence whereof the court made an order requiring the owners of the Sabine to give bond in the sum of $8,000 to respond in damages claimed by said st'r Richmond.

Now, the condition of the above obligation is such, that if the said owners and sureties abide by all the orders, interlocutory or final, of the court, and pay the said libellants the amount awarded by the final decree rendered in the court to which the process is returnable, or in any appeilate court, then the foregoing obligation is to be void; but otherwise shall remain in full force and virtue.

R. F. FULLER. [L. S.]
N. C. SELBY, [L. S.]
For A. B. Selby.
S. C. SHIRLEY, [L. S.]
By her ag't & att'y, JNO. T. SHIRLEY.
ALFRED MOULTON, $2,000. [L. S.]
C. CAVAROC, $2,000. [L. S.]
J. TUYES, $2,000. [L. S.]
A. CHIAPELLA, $2,000. [L. S.]

Alfred Moulton & J. Tuyes, sureties on the within bond, being
79 duly sworn, say that they reside in this city, and are worth each the sum of $2,000, over and above all their just debts and liabilities.

ALF. MOULTON.
J. TUYES.

Sworn to and subscribed before me this 14th day of March, A. D. 1872.

J. A. CHARBONNET,
D'y Clerk.

Rule to bond the Richmond.—March 19, 1872.

SHIRLEY ET AL. *vs.* ST'R RICHMOND. } 9822 & 9823.

Upon motion of G. Campbell & Billings & Hughes, proctors for claimants of the steamer Richmond, it is ordered, that the parties herein show, on the 29th instant, at 11 a. m., why the owners of said steamer should not have leave to bond the same.

MARCH 20, 1872.

The rule to bond the steamer Richmond came up, G. Campbell for the Richmond; Marr for the Sabine, Cohen & Voorhies
80 for Ins. Co., when the counsel for the Sabine and Insurance Compa'y objecting to the appraiser's report, leave was granted them to appoint their own appraisers, and Mr. Marr named John Janney, and thereupon the rule was continued till to-morrow, at 11 a. m.

SHIRLEY ET AL. *vs.* ST'R RICHMOND. } 9822, 9823.

On motion of R. H. Marr, esq., ordered, that R. S. Kirk and Elijah Austen be appointed appraisers to act in conjunction with Mr. Janney.

Order fixing bond at $30,000.

SHIRLEY & AL. *vs.* ST'R RICHMOND. } 9822, 9823.

The rule to bond the steamer Richmond came up agreeably to continuance; present, G. Campbell, E. C. Billings, Marr, Cohen, Egan & Craig, and after hearing the evidence and counsel, it is ordered by the court that the bond for the release of said steamer be fixed at $30,000.

Bond by the Richmond.—Filed 22 *March*, 1872.

81 UNITED STATES OF AMERICA,
District of Louisiana:

Know all men by these presents that we, N. S. Green, master, Jno. N. Boffinger, Theodore Lavielle, Stillwell, Powell & Co., composed of D. R. Powell, S. L. Stillwell and Enoch Stillwell, and Carter & Conn, composed of W. R. Carter & J. H. Conn, claimants and owners of the steamer Richmond, as principals, and Jesse K. Bell, J. B. Woods, J. T. Burdeau, John Wilson, W. H. Brooks, W. G. Coyle & Robert Watson as sureties, are held and firmly bound unto S. C. Shirley et al., and the Merchants' Mutual Insurance Co. et al., libellants, in the sum of thirty thousand dollars, the said sureties binding themselves each for the amount set opposite their respective names, lawful money of the United States of America, for the payment whereof to the said libellants, their heirs, executors, administrators or assigns, we bind ourselves as above, our heirs, executors, and administrators, firmly by these presents. Witness our respective names and seal hereunto affixed by us at New Orleans,
82 this 22d day of March, one thousand eight hundred and seventy-two.

Whereas, an admiralty warrant was lately issued out of the honorable the district court of the United States of America for the district of Louisiana, at the suits of S. C. Shirley & al., and the Merchants' Mutual Ins. Co. et al. vs. The Str. Richmond et al., her tackle, apparel and furniture, and numbered 9822 and 9823 on the docket of the said court, commanding the marshal to seize and take into his possession the said steamer Richmond, which has been seized accordingly, but has been released from said seizure, and delivered to the claimants and owners thereof, by reason of the signing, sealing and delivery of these presents, said claimants having obtained leave of court to bond said property, and filed a claim thereto, which is now of record in the clerk's office of this court:

Now the condition of the above obligation is such, that if the said claimants and sureties abide by all the orders, interlocutory or final of the court, and pay the said libellants the amount awarded by the
83 final decree, rendered in the court to which the process is returnable, or in any appellate court, then the foregoing obligation is to be void; but otherwise shall remain in full force and virtue.

N. S. GREEN, [SEAL.]
Master Str. Richmond & Owners.

JNO. N. BOFINGER,
THEO. LAVIELLE,
STILLWELL, POWELL & Co., [L. S.]
Consisting of D. R. Powell, Sam. Stillwell & Enoch Stillwell.
CARTER & CONN, [L. S.]
Consisting of Jas. Conn, Walker R. Carter.
J. K. BELL, $5,000 (Five thousand.) [L. S.]
J. B. WOODS, $3,500 (Thirty-five hundred.) [L. S.]
J. T. BURDEAU, $2,500 (Twenty-five hundred.) [L. S.]
J. T. BURDEAU, Five hundred. [L. S.]
JOHN WILSON, 3,500 (Thirty-five hundred.) [L. S.]
W. H. BROOKS, 2,500 (Twenty-five hundred.) [L. S.]
W. G. COYLE, Six thousand ($6,000.) [L. S.]
W. H. BROOKS, $600. [L. S.]
ROBERT WATSON, $6,000. [L. S.]

J. K. Bell, J. B. Woods, J. T. Burdeau, Jno. Wilson, W. H. Brooks, W. G. Coyle, Robert Watson, sureties in the within bond, being duly sworn, say, that they reside in this city, and that they are worth each the sum set opposite their respective names over and above all their just debts and liabilities.

J. K. BELL.
J. T. BURDEAU.
J. B. WOODS.
JNO. WILSON.
84 W. H. BROOKS.
W. G. COYLE.
ROBT. WATSON.

Sworn to and subscribed before me this 22 day of March, A. D. 1872.
CH'S CLAIBORNE,
U. S. Commissioner.

SARAH C. SHIRLEY ET AL.
versus.
STEAMBOAT RICHMOND. } No. 9822.

Testimony for claimants taken before K. Loew, United States commissioner, December 12th, 1872, in presence of Billings & Hughes, R. H. Marr and B. Egan, esq.

DAVID O. HARKINS, sworn for the steamer Richmond, says:

I am clerk on the river, and was second clerk, in February last, on the Sabine at the time of the collision between the Sabine and Richmond. I knew D. Trunnell, the mate of the Sabine; Mr. Trunnell was in the pantry getting coffee or lunch at the time of the collision; from the position he was in, it was impossible for him to see the circumstances of the collision. Capt. Selby had retired some time before the collision, and was in the after part of the boat at the time of it.

85 There was nobody on the roof of the Sabine, at the time of the collision, except two negroes, and except the two pilots in the pilot house. I knew it, for I followed the mate up immediately. He and I were together; the mate in front. As soon as the collision occurred, the mate came out of the pantry, and I followed him immediately.

There was no other person present in the cabin than one passenger, the mate and myself. The mate was in the pantry. I saw him come out; had seen him go in about five minutes before to get lunch. As soon as I saw him come out and go upstairs, I followed him up.

The two negroes that were up there were trying to cut the life-boat or yawl so as to lower them and save their lives, I suppose. I prevented them from doing so.

Half an hour after she struck I left her (the Sabine) and went in the yawl. The wind was very high at the time; had it been daylight, I would not have gone in there for fear of my life myself. I did

86 not see the collision. After the collision, I saw Capt. Selby with his child in his arms; it was but a few minutes after the collision, and while I was on the roof.

Cross-examined by Mr. MARR:

I saw Capt. Selby before the collision, at about quarter past one. We were talking together in the forward part of the hall. Capt. Selby was on watch, and was going in and out; this was about one hour before the collision. When the captain left, he went to his room in the after part. He and I had been sitting in the hall; I think I was sitting in the barber's chair, a common chair, the captain sitting near me; after the captain left I went to work. I left the table and went to my trunk, opened it and took out some clothes for change for next morning. My trunk was still open and my clothes outside when the collision occurred.

Whilst I was with the captain in the hall, we conversed together on common topics. I went out of the cabin on the larboard side up to the roof.

I saw the negroes up there right forward of the larboard chim-

87 ney; don't know that they were firemen or even belonged to the boat. They were hollooing that they would cut the life-boat and yawl; the amount of it is that they wanted to cut the life-boat and yawl. They were forward and the life-boat was astern; the life-boat is on the stern of the cabin; the negroes were forward on the chimney. I mean that the negroes were about 82 feet from the life-boat, the yawl about the same distance; the lifeboat laid upon the roof, and the yawl

upon the davits. I suppose the negroes were hallooing to each other and were scared. I would have done the same in their place; it was natural.

I had been on the hurricane roof four or five minutes when Capt. Selby came with his child. The Richmond was just backing out when I got on the hurrican' roof. When the mate got upon the roof he hallooed out. "We are sinking." He hallooed out to the Richmond to come back.

88 I did not go into the pilot-house, walked around it, spoke to no one in the pilot-house; don't know that there was anybody in the pilot-house; suppose there was a pilot on watch at the time.

When the mate and I went on the roof, the only persons I saw there were those two negroes.

I know James Levy; saw him about half past nine that night; saw him come up the same way I had come through; all followed as soon as they could when the collision happened.

I knew a man named Martin on that boat; don't know where he was; neither did I see him at the time of collision; saw him after the collision. I repeat, there was only three people up. Saw Martin after daylight, on the Richmond, when she lay right along the Sabine.

I got back to town about half-past ten. Capt. Fuller had retired very early the night of the collision to his room. I had not been to bed that night.

89 When the negroes hallo'ed they would cut the life-boat and yawl. I threw them down, as there were ladies on board, and I wanted to save their lives first; don't know what became of the frightened negroes.

The pantry is in the starboard side, about the fifth room. The mate *mate* came out of the pantry, and I followed him up; he got ahead of me. Except the two negroes, I and the mate were the first persons that got on the roof.

Don't suppose the place I was sitting is over thirty feet from the steps to get on the hurrican' roof.

I went—we went pretty fast, under the circumstances. We went as quick as we could, and started as soon as we felt the shock. I was just getting through with my manifest when the shock occurred. There was a gentleman, editor of a newspaper, on board at the time, and I was talking with him then. Don't know what became of him. I had to look out for myself.

Question. Was there any conversation between you and Capt. Selby at any time about this collision?

Ans. We conversed a good many times, I suppose, about the collision.

90 Question. Did not Capt. Selby, after the collision, ask you if you knew anything about the collision, for the purpose of having your deposition taken, and did you not tell him that you were not up at the time and knew nothing about the collision?

Ans. No, sir.

Question. If these are not the precise words, did you not tell him substantially that you were not up at the time and knew nothing about the collision?

Ans. No.

Question. After you finished your manifest, did you go out of the cabin at all?

Ans. Not to my recollection.

Question. And nothing occurred to attract your attention until the collision occurred?

Ans. Nothing at all; the shock of the collision was the first thing that disturbed me or attracted my attention.

Question. Did this passenger leave his place?

Ans. Yes; but I don't know where he went to. From the time I commenced talking to the passenger I don't think he left his place before the collision occurred. I live in New Orleans and was not fre-
91 quently in the city at the time depositions were taken in this case; was not in the city when depositions were taken. I mean I was not present when any depositions were taken, but was in the office of Mr. Marr one time that depositions were taken in the next room. I have seen Captain Fuller, Green, Selby, and the officers of both boats, and spoke to them.

By Mr. EGAN:

I met Capt. Selby several times since the collision.

Question. Were you not almost daily with Capt. Selby for some time after the boat had sunk?

Ans. Name your time.

Question. One, two, three, or four weeks?

Ans. Yes; part of that time.

Question. Were you not endeavoring to collect a bill—charges on freight?

Answer. No, sir.

Question. Did you not enquire of me if you had a right to charge them (the libellants) for services rendered in connection of the boat's business after she sunk?

(Objected to by claimant as irrelevant and impertinent.)

Ans. I refuse to answer.

92 Counsel declines examining the witness any further, for his refusal to answer.

Re-examined:

I am thirty-five years of age and in steamboat business since 1855. While I was in the cabin I was so situated that if the captain had left his room to go on deck I would have known it

The witness withdraws his refusal to answer Mr. Egan's questions; but the proctor declines to remain and question the witness any further on the ground that his client, Capt. Selby, had left the room.

D. O. HARKINS.

Sworn to and subscribed before me this 12th December, 1872.

K. LOEW,
United States Commissioner.

The right of the proctor for the insurance co. is reserved for cross-examination.

SARAH C. SHIRLEY ET AL. *vs.* STEAMBOAT RICHMOND. } No. 9822.

Testimony taken for the Richmond, before K. Loew, United States Commissioner, December 16th, 1872.

93 Present, Given Campbell, esq., for the Richmond.

J. B. WOODS sworn, says:

I have known D. O. Harkins since before the late war, and his father a longer time.

Knew D. O. Harkis as a steamboat man; never heard anything against him whatever; always looked upon him as a very reliable young man.

J. B. WOODS.

Sworn to and subscribed before me this 16th December, 1872.

K. LOEW,
U. S. Commissioner.

Submission.—January 13, 1873.

SARAH C. SHIRLEY & AL.
vs.
ST'R RICHMOND. } 9822.

MERCH'TS' M. INS'CE & AL.
vs.
ST'R' RICHMOND & SABINE. } 9823.

Consolidated cases.

The above case was called for trial—present, Marr & Egan, Given Campbell, Billings & Hughes, Cohen & Voorhies—when the same was submitted upon the pleadings and the evidence in the record and upon briefs to be furnished as follows: 15 days are allowed the libel-
94 lants to furnish a printed brief, which shall be answered by claimants within 10 days; and in case the libellants do find it necessary to reply, a further delay of 10 days is allowed them to do so.

Order allowing the Richmond further time to file brief.—January 29, 1873.

SHIRLEY & AL.
vs.
ST'R RICHMOND. } 9822.

M'CH'TS' M. INS. CO.
vs.
ST'RS RICHMOND & SABINE. } 9823.

On motion of A. De B. Hughes, esq., proctor for claimants & owners st'r Richmond, ordered that 20 days from this date be allowed them to file their printed brief.

Judgment & order of reference.—April 14*th*, 1873.

S. C. SHIRLEY & AL.
vs.
ST'R RICHMOND. } 9822.

MERCHANTS' MUT. INS. CO.
vs.
ST'RS RICHMOND & SABINE. } 9823.

The court is satisfied, for reasons orally assigned, that the collision was caused through the fault and negligence of the Sabine.

It is ordered, adjudged, and decreed that the li[illegible] of the st'r Sabine

95 be dismissed with costs, and that on the cross-libel the st'r Richmond recover from said steamer Sabine all damages she has suffered by said collision.

It is further ordered and decreed that upon the libel of the Merchants' Mutual Insurance Company and interveners there be judgment for the claimants and owners of the Richmond, and that said insurance company and interveners recover from the steamer Sabine the damages sustained by them in consequence of said collision.

And it is further ordered that it be referred to Mr. Comm'r Shannon to ascertain and report speedily the amount of damages sustained by the Richmond, the Merchants' Mutual Insurance Company, and the interveners.

Order extending time for appeal.—April 24, 1873.

SARAH C. SHIRLEY & AL.
vs.
ST'R RICHMOND. } 9822.

MERCHANTS' MUT. INS. CO. & AL.
vs.
ST'RS RICHMOND & SABINE. } 9823.

96 On motion of B. Egan & R. H. Marr, proctors for the libellants in the first-named case, and claimants in the second named cause, all of which have been consolidated by order of court, and on suggesting to the court that an order, decree, and reference has been rendered by the court in said two causes on the 14th of April; that a portion of said decree would now be appealable, but not the whole; that the reference made by the court will take some time to prepare, and that all parties desirous of appealing from the decree herein rendered are desirous that the time to do so should be fixed and certain, so that the whole consolidated causes may be taken up together:

Therefore, it is ordered by the court that the time allowed any and all parties desirous of appealing in the above-entitled consolidated cases be extended until 10 days from the date of homologating the commissioner's report to be filed in those causes.

Extract from the minutes of 24 April, 1873.

Order rescinding decree of 24 *April,* 1873.

S. C. SHIRLEY & AL.
vs.
ST'R RICHMOND. } 9822.

97 On motion of W. R. Whitaker, proctor in this behalf for N. C. Selby, the master and owners of the steamer Sabine, and on suggesting to the court that the said libellants do not wish to appeal on this case, it is ordered that the order extending the time for an appeal, made in this case, be rescinded and annulled.

Extract from the minutes of 16th May, 1873.

Rule to reinstate order of 24 *April & to rescind order of* 16 *May*, 1873.

SHIGLEY & AL. vs. ST'R RICHMOND. } 9822.

M'CHTS' M'L INS. CO. vs. SAME & THE SABINE. } 9823.

On motion of B. Egan & R. H. Marr, proctors for Mrs. S. C. Shirley & Richard Fuller, two of the parties to the above cause, and on suggesting to the court that they have never been notified by either of those parties of their discharge and that they consider themselves still proctors for said parties; that an order was entered in this cause on the 16th of May, 1873, at the request of N. C. Selby, styling himself
98 master of the st'r Sabine, rescinding and annulling the order rendered in this cause, fixing the time within which a suspensive appeal might be taken by any person interested, from the order and decree rendered in the above cause: Therefore it is ordered by the court that N. C. Selby show cause on 24th instant, at 11 a. m., why the order made on 16 May, 1873, be not rescinded and the order of 24th April, 1873, reinstated.

Extract from the minutes of 21 May, 1873.

Commissioner's report on costs and damages.—Filed May 31, 1873.

SARAH C. SHIRLEY, ET AL. vs. STEAMER RICHMOND. } 9822.

To the honorable E. H. Durell, judge of the district court of the U. S. for the district of Louisiana:

In pursuance of an order of reference made and entered in the above entitled cause and also in that of the Merchants' Mutual Insurance Company, libellants against the steamboats Richmond & Sabine, No. 9823 on the docket of this court, by which it was referred to the under-
99 signed, one of the commissioners of the court, to ascertain and report speedily the amount of damages sustained by the Merchants' Mutual Insurance Company and the intervenors—

I, Robert H. Shannon, U. S. commissioner to whom said matters were referred, do respectfully report:

That I have taken up, as the subject of this my first report, the matters referred to me in the above entitled action, upon the docket of this court as No. 9822, to ascertain and report the damages sustained by the st'b't Richmond by reason of the collision between the steamboats Sabine & Richmond as set up and specified in the cross-libel of the st'b't Richmond on said suit, No. 9822, and I do report that I have been attended upon said reference by Capt. N. C. Selby, who claimed to appear on behalf of the libellants in said action, having as stated by him discharged the proctors who had formerly appeared for said libellants; by Given Campbell, esq., proctor for the st'r Richmond; by Albert Voorhies & M. M. Cohen, esqrs., for the N. O. Mutual Association and Union In-

100 surance Company; C. Cavaroc and A. Chiapella, sureties on the Sabine's bond; C. B. Singleton, esq., for the Home Mutual Insurance Co., and A. Moulton, another surety on said bond; that notices of hearing and examination of witnesses in said matter were issued to and served upon said proctors for the several dates and times to which the said reference was not adjourned by consent of said proctors; that several witnesses were examined before me touching the said matter, and bills and vouchers have been produced and proved, which are annexed and form part of this report.

The bills are marked A to M and are as follows:

The bill A is for the clerk and appraiser's fees alleged to be in the two suits 9822 and 9823, and which was proven to have been paid by the st'r Richmond; the clerk's amount is stated to be $169.45 and the appraiser's bill of $250. As to the clerk's bill, it appears that all his bill in the two above numbered suits, excepting a balance of $57, has been paid by former allowances out of the proceeds of the sale of the st'b't Sabine & which will be found in my reports filed in the said causes,
101 dated May 3, 1872, and February 24, 1873. There is therefore only that balance which is alleged by the owners of the st'r Richmond to have been paid by them and which will be allowed by me.

As to the appraiser's bill charged at $250, which may be considered as reasonable, as between the owners of the Richmond, and was paid by them in good faith, I shall allow it as against the st'r Sabine or the libellants in action 9822, the parties in that case making no objection against it.

2d. The bills B & C are for marshal's fees in the two suits 9822 & 9823, and as it was admitted before me by the proctor for the Richmond that the deposits made by the Richmond with the said marshal for costs, including the amounts set out in bills B & C, and in addition the marshal has received and has been allowed all his costs and fees in suits No. 9822 & 9823, by my report as above specified, those items in this report will be disallowed.

3rd. The bill D is for copy of testimony of D. Newsmenger, paid to W. I. O'Loghlin, amount $30, and I consider a proper charge, and
102 should and is accordingly allowed.

4. The bills E & F are for amounts paid H. Langford as stenographer in taking testimony in the suit 9822, amounting in the aggregate to $181.70; are also allowed.

5th. The bill G is for amount paid to C. Colton, phonographer, for services rendered in suit No. 9822, amounting to the sum of $155.25; is properly chargeable in said suit as costs and allowed.

6th. The bills H & L, for certified copies of protest in the case of the two steamboats involved in the suit 9822 and paid to Clark D. Ivy, amounting in the aggregate to $10, are allowed.

7th. The bill J, for sketching, measuring & drafting two sections of st'b't Sabine, drawing of view, & paid to Wm. H. Coleman, amounting to $25, is also a proper charge and should be allowed.

8. The bill K, for commissioner's fees, for oaths to libels and affidavits paid to Alfred Ingraham, amounting to $53.50, of which I cannot allow more than $4.90, which is the statutory fee allowed to commission-
103 ers, at 10 cents each, for taking depositions. It appears from the bill that there were 49 oaths administered, which at 10 cents each amounts to the sum I have allowed. (Brightly's Digest, p. 276, S. 12, act Feb'y 20, '53, 10 Stat., 164.) The balance of this bill, $48.60, is disallowed.

9. The bill M, amounting to $402.30, for printing testimony in suit No.

9822, paid to R. H. Benners & Co., is properly chargeable as costs in that suit, & is also allowed.

The charge of the proctor, viz, $20, as his fee allowed by statute, & also the sum of $120 for 48 depositions used upon the trial of the said cause, at $2.50 each, is also allowed; these two items making the sum of $140, to be charged as part of the costs in the suit 9822, in favor of the Richmond.

The aggregate of these several bills, being $1,005.45, I consider are costs properly chargeable against the st'b't Sabine in this my present report, subject to a proper adjustment of those costs as between the st'b't Sabine and the Merchants' Mutual Ins. Co., when the report is made in the suit 9823, wherein the Merchants' Mutual Insurance
104 are libellants against the st'b't Sabine & Richmond *are* the defendants.

According to my report in the cases of the intervenors for a distribution of the balance of the proceeds of the sale of the st'b't Sabine, there was a surplus in the registry of the court amounting to $1,999.30 still undistributed, and which could not be so distributed in the event of the litigation in the suit No. 9822 being disastrous to the steamboat Sabine; the said surplus, so far as it may be necessary to appropriate the same, should be used to pay and indemnify the st'r Richmond in her claim and that of her owners to the payment of the costs and expenses incurred in that litigation separate from the damages which will be considered presently in another part of my report.

This sum of $1,005.45 should be paid out of the above mentioned surplus specified in my report of 27th Feb'y, 1873.

This would still leave a balance of $993.85 in said registry still
105 undistributed and subject to the order of this court.

2nd. As to the damages sustained by the Richmond on account of the collision with the Sabine, witnesses have been examined before me relative thereto, and I accordingly report that it has been established by that evidence that such damage amounts in the aggregate to the sum of $9,750, which I have allowed. The claims for such damages, as set forth in the schedule annexed to the cross-libel, are composed of the following items, viz:

1st.	Wages & crew	1,750
2.	Fuel	500
3.	Bow, dock, & repair	1,050
4.	Wharfage	110
5.	Stores consumed	600
6.	Loss freight list	5,000
7.	Loss passengers' list	600
8.	Survey and protest	40
9.	Consumption oil, rigging, &c	100
10.	Loss of time while repairing boat	2,250
	The sum total of which is	$12,000

Twelve thousand dollars, as stated in the cross-libel filed in the above-entitled suit.

The items above stated and numbered 1, 2, 3, 4, 5, 7, 8, and 9
106 have been conclusively established & should be allowed to the steamboat Richmond, and amount to the sum of four thousand seven hundred and fifty dollars ($4,750).

As to the item 6, for loss on freight list, $5,000, the evidence estab-

lish:ed that at the time when the collision took place the Richmond had left New Orleans for her regular trip from New Orleans to St. Louis, with a full freight, a cargo of about 700 tons; that the value of said freight was 40 per pound. This price for freight would yield to the Richmond at least 5,600, or $600 more than is claimed by the Richmond, & which was lost to her in consequence of said collision. I shall therefore allow this amount as part of the damages due to the Richmond from the Sabine.

As to item 10, for loss of time while repairing the boat, $2,250, I consider that it is a matter of uncertainty and speculation whether any such has actually been sustained by the Richmond or her owners, and the evidence does not by any means establish that charge.

There is no evidence before me to show that any actual offer of
107 charter of the steamboat Richmond had been or would have been made, or that there was at or during the time she was being laid up for repairs any great deficiency of steamboats required for the trade in which the Richmond was running.

The only actual loss to the Richmond, as I have already reported, occasioned by the collision, and for which she and her owners are entitled to recover from the Sabine and her owners, is what I have allowed, and I therefore reject and disallow this latter charge of $2,250.

The whole amount of damages which are allowed is the sum of $9,750, for which sum, in addition to the costs & expenses stated and set forth in the former part of this report, amounting to $1,005.45, for which sums a decree should be entered in favor of the steamboat Richmond, her owners and claimants, in the suit No. 9822, against the libellants in the said suit, and against the sureties on the bonds which may have been given for the libellants in said action.

108 All of which is respectfully submitted.

Dated New Orleans, May 31, 1873.

R. H. SHANNON,
U. S. Commissioner.

Comm'r's charge, $500.00.

Bill A, made part of report.

SHIRLEY & AL.
vs.
ST'R RICHMOND. } 9822.

M'CH'TS' MUT. INS. CO.
vs.
ST'RS RICHMOND & SABINE. } 9823.

Clerk's costs in above cases	169 45
H. G. Heartt, for app'g st'r	250
	419 45

N. O., March 22, '72.

Rec'd above amount of four hundred & nineteen $\frac{45}{100}$ dolls.

J. A. CHARBONNET,
D'y Clerk.

Bill B.—Marshal's costs.

INS'CE CO.
vs.
ST'RS RICHMOND & SABINE. } 9823.

NEW O'L'S, *March* 22, 1872.

Warrant, libel, & ord		6	
Labor, moving			15
½ publishing monition			10
Comm. on disbursements		50	
½ service of papers		36	
		42 50	25
		25	
		67 50	

Rec'd payment.

T. W. DE KLYNE,
Dy'U. S. Marshal.

109 *Bill C.—Marshal's costs.*

SHIRLEY
vs.
RICHMOND. } 9822.

N. O., *March* 22, '72.

Warrant, libel, order	6	
Inventory		75
Monition, &c., for pub'		19
Towage		75
App't keeper & custody		361
Wharfage at N. O		100
" " Algiers		17
		647
Com. on disburs'	12 90	
Service of papers	28	
	46 90	
	647	
	693 90	

Rec'd payment.

T. W. DE KLYNE,
D'y U. S. M.

Bill D.—St'r Richmond to J. O'Loghlin, Dr.

To copy of testimony of D. Ensminger in case of Sabine vs. Richmond, 100 pages @ 30 c'ts $30 00
N. O., April 19, 1872.
Rec'd payment.

JNO. O'LOGHLIN.

APRIL 23, '72.

Approved for $30.

GIVEN CAMPBELL,
Att'y for St'r Richmond.

Bill E.—Steamboat Richmond & owners, Dr., to Henry Langford.

N. ORL'S, *June 1st*, 1872.

110 For reporting testimony in the case of Shirley et al. vs. The Steamboat Richmond & Sabine, before Com'r Loew, 162 p. @ 40 cents 64 80

Approved to be paid for at 35 c'ts a page.

GIVEN CAMPBELL,
Proctor.

Rec'd payment.

H. LANGFORD.

Bill F.—Mr. Given Campbell, Dr., to Henry Langford.

NEW ORL'S, *March* 22, '72.

For reporting testimony in behalf of the claimants of st'b't Richmond in the case of Mrs. C. Shirley & al. vs. St'b't Richmond, one hundred and twenty-five dollars.

Approved for 100.

G. CAMPBELL,
Proctor.

Rec'd payment.

HENRY LANGFORD.

Bill G.—Owners st'r Richmond to C. W. Colton, phonographer, for professional services rendered in case of Shirley vs. St'r Richmond, No. , U. S. D. ct. In admiralty.

N. O., *May* 1, 1872.

170 p., 45 ..... 76 50
175 " " 78 75

155 25

May 4, '72.
Approved for $100.

GIVEN CAMPBELL.

Rec'd pay't, $100.

C. W. COLTON.

111 *Bill H.—Boffinger & Pegram, ag'ts st'r Richmond, to Clark & Ivy, Dr.*

April 6, 1872. For certified copy of protest st'r Sabine..... 5

CLARK & IVY.

Bill I.—St'r Richmond to Will H. Coleman.

Sketching, measuring & drafting two (2) sections st'r Sabine, & line drawing of river..... $25

Rec'd payment.

Bill K.

Ingraham, U. S. com'r..... 53 50

Reduced to $4.90.

Rec. payment in full.

ALFRED INGRAHAM,
Com'r of the U. S.

Bill L.—St'r Richmond to Clark & Ivy, Dr.

For certified copy of protest st'r Richmond..... $5 00

CLARK & IVY,
Pr. CLARK.

112 *Bill M.—St'r Richmond bought of R. H. Benners & Co., printers.*

MRS. SARAH SHIRLEY
vs.
ST'R RICHMOND.

MERCH'TS M. INS. CO.
vs.
SAME.

298 p., @ 1.35..... 402 30
By cash on acc't..... 150

252 30

R. H. BENNERS & CO.,
P'r A. HEIDEMAN.

Affidavit of N. C. Selby.—Filed 21 *May*, 1873.

U. S. OF AMERICA,
DIST. OF LOUISIANA, CITY OF NEW ORLEANS:

Be it known that on the 20 day of May, 1873, and the 97th year of the Independence of the U. S. of America, personally came and appeared before me R. H. Shannon, a U. S. commissioner, duly commissioned and sworn in and for the district of Louisiana, Nathaniel C. Selby, of the city of New Orleans, who, being sworn, says that previous to the filing of the motion to annul the order of the court made on the minutes extending the time for appeal in the case of Sarah C. Shirley & al. vs. The Steamboat Richmond, he did, acting for his wife and for Sarah C. Shirley who
113 were the sole owners of the Sabine, notify in writing the proctors for libellants, R. H. Marr & B. Egan, that their services as proctors in said cause were no longer required, and that the libellants did not intend to appeal the said case; and he further swears that R F. Fuller, who is joined as a libellant in the record of said suit, was never an owner in said steamboat, and that his name was placed in the libel by his proctors against the protest of affiant, and that said Fuller's name never appeared as an owner in said custom house papers of said steamboat; that Mr. B. Egan no longer represents any of the owners of the Sabine aforesaid; that affiant is informed and believes it to be true that said Egan has filed a suit in the 6th district court of Orleans against libellants in said case, sueing them for $2,500 fees alleged by him to be due him for services in this and other matters; that Capt. Jno. T. Shirley, who represents his mother, Sarah C. Shirley, is absent from this city, and that previous to his departure from the city he informed affiant that Mr. Egan had no authority to apply for him to
114 appeal said case, and that it was done without his knowledge or consent; and that said Shirley did not wish to appeal said case, and that he requested affiant to act for him and on his behalf according to his aforesaid ideas; that said Shirley left New Orleans about the 5th of May, 1873, and has not returned since, and that his mother, Sarah C.

Shirley, resides with him in Memphis, Tennessee, and said libellants do not wish to appeal said cause.

And further affiant saith not.

(Signed) N. C. SELBY.

Sworn and subscribed to before me this 20th day of May, 1873.

R. H. SHANNON,
U. S. Comm'r.

Rule to confirm report.—June 2, 1873.

S. C. SHIRLEY & AL. *vs.* ST'R RICHMOND. } 9822.

On motion of Given Campbell, & Billings & Hughes, proctors
115 for the claimants of the St'r Richmond, ordered that libellants show cause on Thursday, the 5th June, 1873, at 11 a. m., why the comm'r's report on the question of damages due the Richmond on her cross libel should not be confirmed and judgment entered accordingly.

Exception to report.—Filed June 5th, 1873.

MRS. SARAH C. SHIRLEY & AL. *vs.* ST'R RICHMOND. } 9822.

M'CH'TS MUT. INS. CO. *vs.* ST'RS RICHMOND & SABINE. } 9823.

Now comes Mrs. Sarah C. Shirley and Richard F. Fuller, two of the libellants in the above cause, and also respondents to the cross-libel in the first of said causes and claimants of the st'r Sabine, & respondents in the 2nd named cause, and except to the report of the comm'r, R. H. Shannon, esq., on the ground that said report was made in an ex parte manner; that neither appearers or their proctors ever were notified of the time or place of the examination of the witnesses on whose
116 testimony the report is based, and the damages assessed; that appearers are entitled to notice of the time and place of the examination of the witnesses produced to prove the damages claimed against them, in order that they may have an opportunity of cross-examining the witnesses and also produce witnesses on their own behalf to contradict the statements of the witnesses produced against them; that they had no opportunity to do anything in this cause because the examination was conducted and carried on without their knowledge & without notice to them, and that the damages assessed against them are excessive and totally unsupported by the evidence on file and to be found in the record; that the injury sustained by the Richmond was actually repaired at an expense of $517, as shown by the testimony of Jesse McHaffie, who made said repairs.

Wherefore appearers pray that this exception be maintained & that the report filed in the above two consolidated cases rejected & dismissed; & appearers pray for general relief.

117 *Judgment.—Entered June 5th*, 1873.

SARAH C. SHIRLEY ET AL.
vs.
ST'R RICHMOND. } 9822.

The rule to confirm the commissioner's report on damages and costs was called up—G. Campbell for the Richmond; B. Egan appearing and filing exception to the report—when, after hearing the evidence, it is ordered and decreed that the exception be overruled, the report confirmed, and that there be judgment in favor of the owners of the steamer Richmond and against Sarah C. Shirley, R. F. Fuller, and Mrs. A. B. Selby, by her husband, N. C. Selby, late owners of the steamer Sabine, for the sum of nine thousand seven hundred and fifty dollars.

And it appearing that the above-named parties, as owners of the st'r Sabine, did on the 15 March, 1872, in compliance with the order of court, furnish bond and security in the sum of $8,000 to respond to the damages claimed by the Richmond in her cross-libel, it is further or-

118 dered and decreed that Alf. Moulton, Ch's Cavaroc, J. Fuyes, and A. Chiapella, as sureties on said bond, be each condemned to pay to the st'r Richmond the sum of two thousand dollars, amount for which each bound himself.

It is further ordered that the said st'r Richmond have judgment against the st'r Sabine and owners for the reimbursement of the several items of costs and charges allowed in the report, namely:

Balance clerk's fees	57	
P'd O'Loghlin, for testimony	30	
Do. H. Langford "	181	70
Do. Colton "	155	25
G. Campbell, proctor's fee	140	
Paid Ivy	10	
" for sketching	25	
" A. Ingraham	4	90
& printing bill	402	80

And that the same be paid from the funds in the registry derived from the sale of the st'r Sabine as far as they may go.

Judgment signed 17th June, 1873.

E. H. DURELL, *Judge.*

Order to pay Shannon $500, *&c.—Entered June* 10, 1873.

SHIRLEY & AL.
vs.
ST'R RICHMOND. } 9822.

119 On motion of R. H. Shannon, comm'r, upon his own behalf, it is ordered that his charges for making & filing his report of damages in the above-entitled cause, which has been allowed at $500, be paid to him out of the moneys in the hands of the registrar of this court in the above-entitled suit and in that of 9823. And it is further ordered that the fee of the proctor for the claimant of the Richmond in said above-entitled cause be also paid out of said fund, as well as clerk's costs, $57.

Rule to amend decree.—Entered 10 *June*, 1873.

S. C. SHIRLEY & AL.
vs.
ST'R RICHMOND. } 9822.

On motion of B. Egan, proctor for McCloskey, Bigley & Co. and various other intervenors in the case of the Merchants' Mutual Ins. Co. vs. Steamer Sabine, No. 9823 of the docket, and on suggesting to the court that the decree rendered in the above cause on the 5th of June, 1873,
120 confirming the report of the commissioner filed in the above cause, gives the proceeds of the st'r Sabine, now in the registry of the court, to the payment of the costs and claim of the owners of the Richmond; and on further suggesting to the court that the claim of the owners of the Richmond was in personam and not in rem; that the commissioner exceeded the power given him by attempting to dispose of the proceeds of the Sabine in this cause; that said proceeds are now in the registry of the court in the suit of the Merchants' Mutual Ins. Co. vs. Sabine, No. 9823; that a large number of persons have intervened in said cause, and are claiming to be paid out of said proceeds for materials, repairs, and supplies furnished to said boat; that said persons are not parties to this suit and had no opportunity of being heard against it, and that it would be unjust to deprive them of their rights against the proceeds of sale of said boat now in the registry of the court in the suit in which said boat had been sold; that their claims in said suit have been twice reported upon, and the last report is now in the
121 hands of the court under consideration, therefore it is ordered by the court that the proctors for the owners of the steamer Richmond and owners do show cause on the 16th instant at 11 a. m. why the report in the above cause and the decree affirming the same should not be amended by striking out the last portion of the same; that is the proportion of the same disposing of the proceeds of the steamer Sabine, and why the portion of the proceeds of said boat withdrawn from the registry of the court by Given Campbell be not returned to the same forthwith by the party withdrawing the same, and why the order allowing R. H. Shannon $500 out of said fund be not rescinded and annulled.

Appeal by R. F. Fuller and securities.—Entered June 10, 1873.

SARAH C. SHIRLEY ET ALS.
vs.
STEAMER RICHMOND. } 9822.

On motion of B. Egan & R. H. Marr, proctors for Richard Fuller, one of the libellants in the above cause, and also for Alf. Moulton,
122 Charles Cavaroc, Jules Tuyes, and Achille Chiapella, securities on the bond given by libell'ts in the above cause, and on suggesting to the court that they are informed & believe that there is error to their prejudice in the final judgment rendered in the above cause on the 5th of June, 1873, and that they are aggrieved by said final judgment & are desirous of taking a suspensive appeal with supersedeas therefrom to the hon. U. S. circuit court for the 5th circuit and district of Louisiana: Therefore, it is ordered by the court that the said Richard F. Fuller, Alfred Moulton, Charles Cavaroc, Jules Tuyes and Achille Chiapella be allowed a suspensive appeal with supersedeas from the above judgment, returnable in the hon. U. S. circuit court for the 5th circuit and

117 *Judgment.—Entered June 5th, 1873.*

SARAH C. SHIRLEY ET AL.
vs.
ST'R RICHMOND. } 9822.

The rule to confirm the commissioner's report on damages and costs was called up—G. Campbell for the Richmond; B. Egan appearing and filing exception to the report—when, after hearing the evidence, it is ordered and decreed that the exception be overruled, the report confirmed, and that there be judgment in favor of the owners of the steamer Richmond and against Sarah C. Shirley, R. F. Fuller, and Mrs. A. B. Selby, by her husband, N. C. Selby, late owners of the steamer Sabine, for the sum of nine thousand seven hundred and fifty dollars.

And it appearing that the above-named parties, as owners of the st'r Sabine, did on the 15 March, 1872, in compliance with the order of court, furnish bond and security in the sum of $8,000 to respond to the damages claimed by the Richmond in her cross-libel, it is further or-
118 dered and decreed that Alf. Moulton, Ch's Cavaroc, J. Fuyes, and A. Chiapella, as sureties on said bond, be each condemned to pay to the st'r Richmond the sum of two thousand dollars, amount for which each bound himself.

It is further ordered that the said st'r Richmond have judgment against the st'r Sabine and owners for the reimbursement of the several items of costs and charges allowed in the report, namely:

Balance clerk's fees	57	
P'd O'Loghlin, for testimony	30	
Do. H. Langford "	181	70
Do. Colton "	155	25
G. Campbell, proctor's fee	140	
Paid Ivy	10	
" for sketching	25	
" A. Ingraham	4	90
& printing bill	402	80

And that the same be paid from the funds in the registry derived from the sale of the st'r Sabine as far as they may go.

Judgment signed 17th June, 1873.

E. H. DURELL, *Judge.*

Order to pay Shannon $500, *&c.—Entered June* 10, 1873.

SHIRLEY & AL.
vs.
ST'R RICHMOND. } 9822.

119 On motion of R. H. Shannon, comm'r, upon his own behalf, it is ordered that his charges for making & filing his report of damages in the above-entitled cause, which has been allowed at $500, be paid to him out of the moneys in the hands of the registrar of this court in the above-entitled suit and in that of 9823. And it is further ordered that the fee of the proctor for the claimant of the Richmond in said above-entitled cause be also paid out of said fund, as well as clerk's costs, $57.

Rule to amend decree.—Entered 10 *June*, 1873.

S. C. SHIRLEY & AL.
vs.
ST'R RICHMOND. } 9822.

On motion of B. Egan, proctor for McCloskey, Bigley & Co. and various other intervenors in the case of the Merchants' Mutual Ins. Co. vs. Steamer Sabine, No. 9823 of the docket, and on suggesting to the court that the decree rendered in the above cause on the 5th of June, 1873, confirming the report of the commissioner filed in the above cause,
120 gives the proceeds of the st'r Sabine, now in the registry of the court, to the payment of the costs and claim of the owners of the Richmond; and on further suggesting to the court that the claim of the owners of the Richmond was in personam and not in rem; that the commissioner exceeded the power given him by attempting to dispose of the proceeds of the Sabine in this cause; that said proceeds are now in the registry of the court in the suit of the Merchants' Mutual Ins. Co. vs. Sabine, No. 9823; that a large number of persons have intervened in said cause, and are claiming to be paid out of said proceeds for materials, repairs, and supplies furnished to said boat; that said persons are not parties to this suit and had no opportunity of being heard against it, and that it would be unjust to deprive them of their rights against the proceeds of sale of said boat now in the registry of the court in the suit in which said boat had been sold; that their claims in said suit have been twice reported upon, and the last report is now in the
121 hands of the court under consideration, therefore it is ordered by the court that the proctors for the owners of the steamer Richmond and owners do show cause on the 16th instant at 11 a. m. why the report in the above cause and the decree affirming the same should not be amended by striking out the last portion of the same; that is the proportion of the same disposing of the proceeds of the steamer Sabine, and why the portion of the proceeds of said boat withdrawn from the registry of the court by Given Campbell be not returned to the same forthwith by the party withdrawing the same, and why the order allowing R. H. Shannon $500 out of said fund be not rescinded and annulled.

Appeal by R. F. Fuller and securities.—Entered June 10, 1873.

SARAH C. SHIRLEY ET ALS.
vs.
STEAMER RICHMOND. } 9822.

On motion of B. Egan & R. H. Marr, proctors for Richard Fuller, one of the libellants in the above cause, and also for Alf. Moulton,
122 Charles Cavaroc, Jules Tuyes, and Achille Chiapella, securities on the bond given by libell'ts in the above cause, and on suggesting to the court that they are informed & believe that there is error to their prejudice in the final judgment rendered in the above cause on the 5th of June, 1873, and that they are aggrieved by said final judgment & are desirous of taking a suspensive appeal with supersedeas therefrom to the hon. U. S. circuit court for the 5th circuit and district of Louisiana: Therefore, it is ordered by the court that the said Richard F. Fuller, Alfred Moulton, Charles Cavaroc, Jules Tuyes and Achille Chiapella be allowed a suspensive appeal with supersedeas from the above judgment, returnable in the hon. U. S. circuit court for the 5th circuit and

district of Louisiana at the next ensuing term of said court, on their giving bond in the sum of $20,000, conditioned according to law.

Extract from the minutes of 10 June, 1873.

Appeal by Rich'd F. Fuller.—Entered June 10, 1873.

123 SARAH C. SHIRLEY ET AL. *vs.* ST'R RICHMOND. } 9822.

On motion of R. H. Marr and B. Egan, proctors for Richard F. Fuller, one of the libellants in the above entitled cause, and on showing to the court that Sarah C. Shirley and Mrs. America B. Selby, wife of N. C. Selby, co-libellants with said Fuller, have declined and refused to join in an appeal from the final decrees herein rendered; and on further showing to the court that a certain final decree hath been rendered in said cause upon the original libel dismissing the said libel and that a certain other final decree hath also been rendered upon the cross-libel of the St'boat Richmond and owners, awarding them the sum of $9,750 damages and costs of suit against said Fuller & his co-libellants; that the decree dismissing the libel was rendered on the 14th day of April, 1873, and the decree confirming the commissioner's report, awarding damages against said Fuller and his co-libellants, was entered on
124 the 5th day of June, 1873; that there is error in the said final decrees to the prejudice of said Fuller as he is advised, whereby he is aggrieved, and that he desires to take an appeal from the said final decrees for the protection of his own interest: it is now ordered by the court that an appeal be granted to the said Rich'd F. Fuller from the said final decree dismissing the libel of said Fuller and his co-libellants, and that an appeal be also granted to said Richard F. Fuller from the said final decree upon the cross libel awarding damages and costs against the said Fuller and his co-libellants, in favor of the St'boat Richmond and owners, said appeal to operate in each case as a supersedeas upon the said Fuller giving bond and security in the sum of $500 conditioned according to law, and that said appeals be returnable in the circuit court of the U. S., 5th circuit and district of Louisiana, at the next ensuing term of said court.

125 *Rule to dismiss appeal of R. F. Fuller.—Entered 12th June, 1873.*

S. C. SHIRLEY & AL. *vs.* ST'R RICHMOND. } 9822.

On motion of claimants in aforesaid cause, and on suggesting to the court that they are informed that R. F. Fuller was not an owner of the Sabine and is not interested in the decree dismissing the libel of the Sabine in this suit, ordered, that his proctors, B. Egan & R. H. Marr, esqrs., do appear in this hon. court on 16th day of June, 1873, and show cause why the order allowing him an appeal from said decree should not be revoked and said appeal be dismissed.

Notice to test solvency of surety on bond.—Issued June 11, 1873.

SARAH C. SHIRLEY ET AL.
vs.
ST'R RICHMOND. } 9822.

To Messrs. Given Campbell, & Billings & Hughes, proctors for the claimants & owners of the st'r Richmond:

126 You are hereby notified that Richard F. Fuller, Alfred Moulton, Jules Tuyes, Achille Chiapella & Charles Cavaroc, appellants in above numbered & entitled cause, will produce in the clerk's office of this court on Saturday, 14th instant, at 2 p. m., the following persons as sureties on the appeal bonds to be given by them in above case:

1. Mr. Alexander Brother, president of Home Mutual Ins. Co., corner of Camp & Natchez streets.

2. L. F. Generes, stock note broker, No. 109 Custom House street, also president of La. Savings Institution, on Canal street; residence, 173 Carondelet st.

3. Mr. P. S. Wiltz, comm. merchant, 58 Carondelet st., and residing at No. 35 Louisa st.

J. A. CHARBONNET,
D'y Clerk.

To the above list of persons pro'ferred as sureties on the appeal bonds to be given must be added J. W. Hincks, sec'y of N. O. Mut. Ins. Co., corner Camp & Canal; resides 124 Conti st.

J. A. CHARBONNET,
D'y Clerk.

127 Received June 11, 1873, & on the 12th of same month & year served a copy of within notice on the within named in the following manner: on G. Campbell, by handing the same to him in person, and on Billings & Hughes by handing the same to E. C. Billings.

New Orl's, June 13, 1873.

S. W. REED,
D'y U. S. Marshal.

Appeal bond.

District court of the United States. In admiralty.

UNITED STATES OF AMERICA,
District of Louisiana:

SARAH C. SHIRLEY ET AL.
vs.
ST'R RICHMOND. } No. 9822.

Know all men by these presents that we, Richard F. Fuller, by R. H. Marr, his proctor, as principal, and J. W. Hincks & Alexander Brother, as sureties, are held and firmly bound unto the St'b't Richmond & Nat. S. Green, her master, & to Nat. S. Green, J. N. Boffinger, Theod. Lavielle, Stillwell, Powell & Co., & Carter & Conn, her owners, in
128 the sum of five hundred dollars, to be paid to the said St'b't Richmond, her master & owners above named, for the payment of which, well and truly to be made, in lawful money of the United States, we bind

ourselves and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents, sealed with our seals, and dated at New Orleans, the 14th day of June, 1873.

Whereas the above named Richard F. Fuller has appealed to the next term of the circuit court of the United States for the 5th circuit and district of Louisiana from a final judgment of the district court of the United States for said district, rendered against him on the 14th day of April, '73, & 5 June, 1873, and signed on the 17th day of June, 1873, in the above entitled cause:

Now, therefore, the condition of this obligation is such that if the above named appellant shall prosecute his appeal to effect, and answer all damages and costs and satisfy whatever judgment may be rendered against him if he fail to make his appeal good, then this obligation to be void; otherwise the same shall be and remain in full force and effect.

129

(Signed) RICHARD F. FULLER,
By R. H. MARR, [L. S.]
One of his Proctors.
(Signed) J. W. HINCKS. [L. S.]
(Signed) A. BROTHER. [L. S.]

Signed, sealed and delivered in the presence of—
(Signed) K. LOEW,
D'y Clerk.

J. W. Hincks & Alex. Brother, surety on the within appeal bond, being duly sworn, says that they reside in this city and are worth each the sum of $500 over and above all his just debts and liabilities.

J. W. HINCKS.
A. BROTHER.

Sworn to and subscribed before me this 14th day of June, 1873.
K. LOEW,
U. S. Com.

Appeal bond filed June 14, '73.

Appeal bond.

District court of the United States. In admiralty.

UNITED STATES OF AMERICA,
District of Louisiana:

130 SARAH C. SHIRLEY ET AL. *vs.* ST'R RICHMOND. } No. 9822.

Know all men by these presents that we, Richard F. Fuller, by R. H Marr, one of his proctors, Alfred Moulton, Charles Cavaroc, Jules Tuyes and Achille Chiapella, as principals, and J. W. Hincks, P. S. Wiltz, Alexander Brother & L. F. Generes, as sureties, are held and firmly bound unto the St'b't Richmond & Nat. S. Green, her master, & to Nat. S Green, Jno. N. Boffinger, Theodore Lavielle, Stillwell, Powell & Co., & Carter & Conn, her owners, in the sum of twenty thousand dollars, to be paid to the said St'b't Richmond, her master & owners above named,

for the payment of which, well and truly to be made, in lawful money of the United States, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals, and dated at New Orleans the 14th day of June, 1873.

Whereas the above named Rich'd F. Fuller, Alfred Moulton,
131 Charles Cavaroc, Jules Tuyes & Achille Chiapella have appealed to the next term of the circuit court of the United States, for the 5th circuit and district of Louisiana, from a final judgment of the district court of the United States for said district, rendered against them on the 5th day of June, 1873, and signed on the 17th day of June, 1873, in the above-entitled cause:

Now, therefore, the condition of this obligation is such that if the above-named appellants shall prosecute their appeal to effect, and answer all damages and costs and satisfy whatever judgment may be rendered against them if they fail to make their appeal good, then this obligation to be void; otherwise the same shall be and remain in full force and effect.

R. F. FULLER, [L. S.]
By R. H. MARR,
One of his Proctors.
J. TUYES. [L. S.]
ALF. MOULTON. [L. S.]
C. CAVAROC. [L. S.]
A. CHIAPELLA. [L. S.]
J. W. HINCKS, 5,000. [L. S.]
P. S. WILTZ, 5,000. [L. S.]
A. BROTHER, 5,000. [L. S.]
L. F. GENERES, 5,000. [L. S.]

132 J. W. Hincks, A. Brother, L. F. Generes, & P. S. Wiltz, sureties on the within appeal bond, being duly sworn, says that they reside in this city and are each the sum of $5,000 over and above all their just debts and liabilities.

P. S. WILTZ.
J. W. HINCKS.
A. BROTHER.
L. F. GENERES.

Sworn to and subscribed before me this 14 June, 1873.

K. LOEW,
U. S. Com'r.

Appeal bond filed June 14, 1873.

Order dismissing rule to modify and amend decree of 5 June, 1873, rendered June 16, '73.

SARAH C. SHIRLEY ET AL. vs. ST'R RICHMOND. } 9822.

The rule taken by McCloskey, Bigley & Co. & others on 10th instant was called—B. Egan for movers, G. Campbell for def'ts, in rule—when, after hearing counsel, it is ordered that said rule be dismissed with costs.

133 *Order continuing rule to dismiss Fuller's appeal, June* 16, 1873.

S. C. SHIRLEY & AL.
vs.
ST'R RICHMOND. } 9822.

The rule taken by claimant on 12th inst., to dismiss the appeal of R. F. Fuller, came up—Given Campbell for movers, R. H. Marr for def't in rule—when, on motion of the proctor for Fuller, it is ordered that the clerk do compare said Fuller's signature to 4 documents marked O with his signature to documents on file in the record and report thereon by to-morrow at 11 a. m.

Clerk's report.—Filed June 17, '73.

SHIRLEY & AL.
vs.
ST'R RICHMOND. } 9822.

To his honor the dist. judge of the U. S. for the district of Louisiana:

In obedience to your order, I have made a careful comparison of R. F. Fuller's signature to the building contracts for the Sabine with his signature to the libel & to the answer to the cross libel in this case and am satisfied that said signatures are one & the same handwriting.

Respectfully submitted.

K. LOEW,
D'y Clerk.

134 *Document marked O, No.* 1.

[D. S. Barmore, steamboat builder.]

JEFFERSONVILLE, IND., *Sept.* 6, 1871.

Capts. SELBY & FULLER:

I propose to build you one stern-wheel st'boat, hull, & cabin, as follows:

Hull, 150 feet on deck; 36 feet beam; 5 ft. hold; size of timbers, plank, &c., to meet the requirements of Red River. Guards, 2 feet wide; one main fore & aft bulkhead; decking, 2 in. thick; & furnish ship carpenters' outfit as follows: Fill wheel, make cylinder timbers, put up all main & knuckle chain braces, wood, & hang capstans, wood work for freight hoister, make & hang rudders, cavils, bits, water-way around doctor, jack staff, dunnage, salt boxes, stages, stage & hook plank, main & yawl derrick fenders, wood-rack, yawls, one 12 feet life boat, tiller rope, skids, boiler stands, ash pan, spars, derrick steps, pilot wheel, shelves & cabin, as follow: Boiler deck, 120 ft. long; 30 ft. wide forward & 40 wide at cylinders; 14 ft. between decks, with 9
135 lengths of rooms on a side, 6½x7, except the after one is to be 6½x10 feet; cook-house, 8x12 feet. Pantry and outhouses to be on the stern. Bar & office to be finished with pine & made plain. Slat rail around boiler deck. No texas; siding on main deck sufficient to cover the machinery, & furnish 1 ice box.

All to be done in good and workmanlike manner, for the sum of eight thousand seven hundred & twenty-five dollars.

(Sig.) DAVID S. BARMORE.

$8,725 in the following manner: One-half cash as the work progresses; balance in 7 equal payments, commencing 60 days after the boat is finished, in satisfactory acceptances. Boat to be finished inside of 50 days.

(Signed) N. C. SELBY.
R. F. FULLER.
DAVID S. BARMORE.

Doc't O, No. 2.

The undersigned agree & bind themselves as follows, vs:

Jno. T. Shirley & S. C. Shirley, of Louisville, Ky., agree to
136 furnish engines & boilers for a stern wheel steamboat to be called Sabine, engines of the following dimensions: cylinders 15 inches diameter & about 5½ ft. stroke.

N. C. Selby & Rich. Fuller, of New Albany, Ind., are to furnish a hull built with Red River requirements, of the following dimensions: 145 ft. long, 36 ft. beam, 4½ ft. hold in the clear, with 2½ ft. guards; also a plain cabin with 9 rooms on a side, which hull & cabin are to be built without delay by D. S. Barmore, under the mutual supervision of Jno. T. Shirley & N. C. Selby, so as to get the boat out about 1st November next, the other expenses of building & outfitting to be charged up equally to J. T. & S. C. Shirley, & N. C. Selby & Rich. F. Fuller, so that Jno. T. & S. C. Shirley will have one-half of said steamboat Sabine, & N. C. Selby & R. F. Fuller one-fourth each. N. C. Selby to act as captain, & R. F. Fuller as first clerk of said steamboat, & Jno. T. Shirley to give the benefit of his acquaintance & influence in Texas and his services to the boat's interest & each to receive a reasonable compensation
137 while so employed; the boat to be run on Sabine River in Texas, or any other trade that may be mutually agreed up' and in case the parties disagree and either party wishes to sell out, he binds himself to give the other party the privilege of buying his interest at a fair valuation over any other party. Statements of boat's business to be rendered each trip & dividends of profits as near months as practicable.

Witness our hands and seals this Louisville Ky., Sept. 6, 1871.

N. C. SELBY. [SEAL.]
R. F. FULLER. [SEAL.]
JNO. T. SHIRLEY, [SEAL.]
For self, & S. C. Shirley.

Doc't O, No. 3

Know all men by these presents, that a steamboat named Sabine, has been built at Louisville, Ky., by Mrs. S. C. Shirley, one-half, Mrs. America Selby, one quarter, and R. F. Fuller, one quarter, costing $20,000.

Said Fuller has paid on his interest in cash the sum of $1,457.
138 The papers of said boat have been taken out in the names of Mrs. S. C. Shirley, one-half, Mrs. America B. Selby, the other half; the said Mrs. America B. Selby mortgaging her property in New Albany to secure the payment of the additional amount unpaid by said Fuller on his one-fourth interest of said boat.

This indenture and contract witnesseth, that in consideration of the foregoing premises, that as soon as said boat, shall, by her net earnings make sufficient amount, the fourth part of which is said Fuller's, that his ¼ interest so made to pay off to said America Selby, the amount so

secured by her for & on behalf of said Fuller, then said amount shall be so appropriated to pay her, or if said Fuller may pay off said amount in any other way, then whenever said amount shall be so paid, the said Mrs. America Selby, shall, by deed or bill of sale, convey the ¼ part of said boat to the said Fuller.

In case said boat shall be sold, the said Fuller shall be entitled to the foregoing contract; and if said boat sells for more than the amount
139 so paid or secured to be paid by Mrs. Selby, the overplus is to be for the benefit of the said Fuller.

Witness our hands & seals, this 7th day of December, 1871.

AMERICA B. SELBY. [SEAL.]
R. F. FULLER. [SEAL.]
N. C. SELBY. [SEAL.]

STATE OF KENTUCKY,
Jefferson County:

Be it remembered, that on this day personally appeared before me, the undersigned, a notary public, in and for the county and State aforesaid, and resident of the city of Louisville, America B. Selby, wife of N. C. Selby, R. F. Fuller & N. C. Selby, and acknowledged the execution of the foregoing instrument of writing to be their act and deed, and intend not to retract it, for the purposes therein named.

In testimony whereof, I have hereunto set my hand and affixed my official seal, this 7th day of December, A. D. 1871.

[SEAL.]

JEFF. BONN,
Notary Public in and for Jeff. Co., Ky.

140 *Doc't O, No. 4.*

LOUISVILLE, KY., *June* 6, '73.

H. H. RYAN, Esq.,
New Orl's, La.

DEAR SIR: I saw my brother yesterday; he told me to tell you to draw up the paper you wanted him to sign, in order to give you authority to act for him & send it to him, & he would sign it and send it back.

My brother or myself have not been consulted by Selby or Levi in the Sabine matter; my brother does not know Levi. I have had no conversation with Selby about the Sabine case, since I left New Orleans a year ago. I did not see Selby when he was here the last time, he has never consulted me about the business at all; he is holding out the idea that I have no interest in the matter whatever.

Our creditors here are under the impression that Shelby and Shirley have sold out to the Richmond party, and are satisfied if they get the insurance money or any other money, they will never get a cent; they, as well as myself, are anxious to have the case taken up, and are willing to help pay the expenses.

141 Write me about the bond, what amount we will have to give, &c. I think Mr. Marr can get the insurance companys to go on the bond; if so, we will take an appeal immediately; and if we gain the case, I will make it to his interest and be willing to divide with you and him, or say give you an equal interest with myself, as I implicit confidence in Mr. Marr's judgment, and want to see him beat that Richmond party and am certain he can do it.

I have no confidence in Selby's suit with the insurance companys; am certain they will beat him, as Selby settled with them once, & cannot get over it. I do not think the transfer to Levi will hold. Afte

Selby settled with Mr. Cavaroc he went to settle with Mr. Crawford. Mr. Crawford told him: "I see here you have transferred your interest to Levi." Selby says: "Yes; but I have not signed it, and had not signed the transfer at the time, and never delivered the policies to Levi."

Did you get the letter I wrote you in answer to your letter of the 1st of May? What did John Janney say about the $250?

142 Selby will tell you anything to deceive you. So you can put no confidence in anything he may say, as there is no principle or honor about him, which you will find out, if you have not already.

I wish to be kindly remembered to Mr. Marr & Egan. All they will be able to get all their fee out of this case anyhow.

With the hope that this find you enjoying good health, I have the honor to be, very respectfully, yours, &c., &c.,

R. F. FULLER.

Note of evidence.—Filed 17 *June*, 1873.

SHIRLEY *vs.* STR. RICHMOND. } 9822.

Counsel for Fuller offered in evidence the clerk's report and 4 doc'ts, marked O.

Order.—Appeal maintained.

S. C. SHIRLEY & AL. *vs.* STR. RICHMOND. } 9822.

The rule to dismiss Fuller's appeal was resumed—G. Campbell
143 & E. C. Billings for movers; R. H. Marr for Fuller.

When, after hearing the evidence and counsel, it is ordered by the court that the rule be dismissed and the appeal maintained with costs.

Intervention of P. S. Brown.—Filed March 1*st*, 1872.

U. S. dist. court, dist. of La.

MERCHANTS' MUTUAL INS. CO. *vs.* ST'RS SABINE & RICHMOND. } No. 9823.

Peter S. Brown, steamboat blacksmith, of Louisville, Ky., exhibits this, his intervening libel, against the steamboat Sabine, her engines, machinery, furniture, tackle, and apparel, & against all persons lawfully intervening for their interest therein (the said Sabine now being in custody of the marshal of this court, under and by virtue of process issued out of the court in the above entitled cause) in a cause of contract, civil and maritime, for work and labor done, and for materials furnished to the said Sabine: and thereupon your libellant doth allege and
144 articulately propound as follows, to wit:

First. That the master of the said steamboat Sabine, then lying in the port of Louisville, Ky., came to libellant and represented that said steamboat was in need of certain materials and of certain labor and

work in iron in order to render her in a proper condition to pursue her business of commerce and navigation, and requested libellant to furnish said materials and repairs, and to do said work.

Second. That thereupon libebellant did, in accordance with the request of the master and one of the owners of said steamboat, *did* furnish all the iron-work that said steamboat then needed, and did all the work required, the items and particulars of which will appear from the detailed bill hereto to be attached and made a part hereof; that a small portion of the money due on same has been paid, but that a balance remains due and unpaid on same of three hundred and thirty-one $\frac{80}{100}$ dollars & interest thereon at the rate of six per cent. from Dec'r 9th, 1871;
145 that said materials, and work, and labor was furnished as well on the credit of the master and owners of said boat, as on the credit of said boat; that said boat was owned in Indiana & Kentucky, but her managing owner lived in Indiana.

Third. That to secure *and* evidence of said debt a note was given by the said master and owners of said boat, dated Louisville, Dec'r 9th, 1871, due thirty days from date; that the libellant did not intend nor did he waive his lien by taking said note; that he is ready to return same upon payment of his account due as aforesaid.

Fourth. For a further cause, libellant doth allege and propound as follows: That at Louisville, in the State of Kentucky, on the 9th day of December, 1871, the said steamer Sabine was then under seizure at the suit of a creditor in New Albany, Indiana, for a claim against said steamboat for materials furnished to her by the Lawrence Iron Works; that on the application of the master of the said steamboat, and
146 in order to effect the release of the said steamboat, your libellant did then and there, at the special instance & request of the master and owner of said boat, endorse the note of the claimant and owner of said boat to effect her release; that then said boat was released and delivered to the said owners and master of said Sabine, who are now the owners of said boat; that the claim for which she was seized by said Lawrence Iron Works was a lien-claim against said boat, and that the said Lawrence Iron Works took the note of the said steamboat for $754.69 *dollars* in payment of said debt due them, for which they had seized said boat, with the endorsement of libellant thereon; that said note was dated Dec'r 9th, 1871, due in ninety days from date, and made by the master and owners of said Sabine and endorsed by libellant; that said endorsement was made on the credit of said steamboat as well as of her master and owners; that the master and owners of said boat have notified your libellant that they are unable to pay same, and that he
147 must pay it; that he is liable and bound to pay said note to the said holders, and that the owners of the said Sabine, he is informed and believes, are insolvent, and their said obligation to him for said $754.69 is due and payable. That the two claims he holds against said steamboat, master and owners, altogether amount as aforesaid to (381.80+754.69=1,086.49) a thousand and eighty-six $\frac{49}{100}$ dollars, due and unpaid to him from the said steamboat Sabine, master, and owners.

Fifth. That all and singular the premises are true and within the admiralty and maritime jurisdiction of this hon. court.

Wherefore libellant prays that process in due form may issue in his favor against the said steamboat Sabine, and against her owners in personam, Mrs. Sarah C. Shirley, Mrs. A. B. Selby, and R. F. Fuller, and that this hon. court will pronounce in favor of the claims set up by libellant against the said steamboat and her owners, and will decree the

same to be paid with costs, and for such other and further relief
148 & redress as the case may demand and which the court is competent to grant.

PETER S. BROWN.

Sworn to and subscribed before me this 29th day of February, A. D. 1873.

[SEAL.] ALFRED INGRAHAM,
Comm'r of the U. S.

GIVEN CAMPBELL,
Proctor.

Let this intervention be filed.
March 1st, 1872.

E. H. DURELL, *Judge.*

Exception for st'r Richmond & N. S. Green, master, to libel and interventions.—Filed March 4, 1872.

U. S. dist. court, dist. of La. In admiralty.

MERCHANTS' MUTUAL INS'CE CO. *vs.* ST'B'TS RICHMOND & SABINE & ALS. } No. 9823.

149 The plea and exception of Nat. S. Green, master of the Richmond, as well for himself as for the owners of the said st'b't Richmond, to the libel of the Merchants' Insurance Co. and to the intervening libels of Lehman, Newgass & Co., Jurey & Gillis, T. & S. Henderson, A. Levi, J. R. Higgins & Co., Campbell & Strong, Randall & Co., John Phelps & Co., Penn, Pace & Simmons, Musson, Prestidge & Co., Hinston, Morrison & Co., N. W. Farley & Co., Golsan & Brothers, B. M. Howell & Co., Broadnax & Campbell, Johnson & Goodrich, Stewart & McCarthy, Clapp Bros. & Co., Bussey & Co., Payne, Dameron & Co.

Now comes N. S. Green, master and claimant of the st'b't Richmond, for and on behalf of said steamboat, and for and on behalf of himself as master, and in personam and by protestation not confessing or acknowledging any of the things in the libel of libellant and in the intervening libels of said intervening libellants contained to be true in such manner and form as alleged therein, for plea and exceptions to said libels and said intervening libels herein filed, says:

That this honorable court has not jurisdiction, and ought not to proceed to enfor'e the demands set forth and alleged in said libel
150 and in said intervening libels against him, the said master, and against the said st'b't Richmond, because the said claims are not of a maritime nature, and give no claim against the said master, enforceable in this court, and give no lien on the said st'b't Richmond, and the said demands are not within the admiralty and maritime jurisdiction of this hon. court.

Wherefore he prays judgment of this hon. court whether he or the claimant of the said steamboat Richmond shall be compelled to make any other or fuller answer to said original and intervening libels, and he prays to be hence dismissed with costs, and asks that the said st'b't Richmond be discharged from court.

GIVEN CAMPBELL,
E. C. BILLINGS,
Proctors.

Rule on exceptors to make exceptions more definite, &c.—Filed March 14th, 1872.

United States district court, district of La. In admiralty.

MERCHANTS' MUTUAL INSURANCE COMPANY
vs.
ST'B'TS RICHMOND & SABINE & ALS. } No. 9823.

151 On motion of M. M. Cohen and A. Voorhies, proctors for libellants and intervening libellants, & on suggesting to the court that the exception filed herein on behalf of the Richmond is so vague and uncertain, that the libellants cannot respond to the same without its being further explained, and ought not to be required to answer to said exception until or unless it be amended and rendered clearer and plainer, it is ordered that the exceptors on behalf of the Richmond show cause on Thursday next, the 21st day of March, 1872, at 11 o'clock a. m., why said exception should not be made more definite and explicit, within a delay to be fixed by this hon. court, or in default thereof that said exception be dismissed.

Return of service.

Received March 15, '72, by the U. S. marshal, and on the same day, month, and year served a copy of the within rule and grounds on Campbell & Billings named herein, by handing the same to J. Devonshire, clerk for E. C. Billings named herein.

152 New Orleans, March 16, 1872.

S. W. REED,
D'y U. S. Marshal.

Order to appraise st'r Richmond.—From minutes of 16 March, 1872.

MERCHANTS' MUTUAL INS. CO.
vs.
ST'R SABINE & ST'R RICHMOND. } 9823.

On motion of E. C. Billings, esq., ordered that an appraisement of the st'r Richmond be made by H. G. Heartt, to ascertain the amount of the bond required for the release of said boat.

On the 19, 20, 21, 30 March, 15, 16, 20, 24, 26 April, and 2 November, 1872, the following named parties filed intervening libels in this case for materials, supplies, &c., furnished the st'r Sabine, as follows, to wit:

McCloskey, Bigley & Co., coal	$255	
England, Fallen & Co., supplies	18	50
City of New Orleans, wharfage	202	10
Nobe & Woods, supplies	551	39
G. F. Miller, coal	80	
A. L. Shotwell & Son, "	272	
Wilson, Fagan & Co., supplies	60	02
Chas. Fox, "	62	38
153 David Hughes, supplies	86	77
M. J. Taylor, materials	91	
N. C. Selby, wages as master	1,320	
Mike Clarke, supplies	79	
Wm. Tait, iron safe	127	75
J. J. Barr & Co., supplies	765	

Order fixing bond of Richmond at $30,000.—From minutes of March 21, 1872.

S. C. SHIRLEY & AL. *vs.* ST'R RICHMOND. } 9822.

M'CH'TS' M'L INS. CO. *vs.* ST'R' RICHMOND & SABINE. } 9823.

The rule to bond the steamer Richmond came up agreeably to continuance. Present, G. Campbell, E. C. Billings, Marr, Cohen, Egan, & Craig. And after hearing the evidence and counsel, it is ordered by the court that the bond for the release of said steamer be fixed at $30,000.

Order dismissing rule of 14th March.—From minutes of 21 March, 1872.

MERCHANTS' MUTUAL INS. CO. *vs.* ST'RS SABINE & RICHMOND ET ALS. } 9823.

The rule taken on 14th instant by libellants to compel the ex-
154 ceptors on behalf of the st'r Richmond to make their exception more definite and explicit came up—M. M. Cohen for libellants; G. Campbell for the Richmond—when, after hearing the pleadings and argument, ordered that said rule be dismissed, with costs.

Order of reference to R. H. Shannon on claims for supplies.—From minutes of 9th April, 1872.

M'CH'TS' MUTUAL INS'CE CO. *vs.* ST'RS SABINE & RICHMOND. } 9823.

B. Egan, esq., moving to refer the claims of the furnishers of supplies and material men to a commissioner and report, ordered that the same be referred to Comm'r Shannon.

Answer to libel of intervention of T. S. Brown.—Filed May 1st, 1872.

U. S. circuit court.

MERCHANTS' MUTUAL INS. CO. *vs.* ST'RS SABINE & RICHMOND. }

155 Now come the claimants of the st'r Sabine into court, and for answer to the libel of intervention herein filed by Peter Brown, allege as follows:

1. Respondents deny that the facts stated in the first article of the libel are true, and allege the truth and facts to be that the st'r Sabine was not in existence when the libellant pretends to have furnished labor and work to her, and for further answer claimants allege that her building was commenced in October, 1871, launched in Jeffersonville, Indiana, and not completed or enrolled until December 8th, 1871; in consequence of this the whole article is falsely and untruly stated.

2. Respondents deny that the facts stated in the second article of the libel are true, and allege the truth and facts to be that *that* the st'b't Sabine did not exist at the time libellant pretends to have worked on her and furnished materials; that she was then being built at Jeffersonville, Indiana, where two of her owners, to wit, A. B. Selby and R. F. Fuller, reside, and that her other owner, Mrs. S. C. Shirley, resides in Louisville, Ky.

156 3. Respondents deny that the facts stated in the 3d article are true.

4. Respondents deny that the facts stated in the fourth article of the libel are true, and allege the truth and facts to be as stated above.

Wherefore respondents pray that this hon. court will be pleased to decree against the claims of libellant, with all costs of suit.

N. C. SELBY.

On this first day of May, A. D. 1872, N. C. Selby, the master of the steamboat Sabine, was sworn to the truth of the foregoing answer before me.

R. H. SHANNON,
U. S. Comm'r.

BENTINCK EGAN, *Proctor.*

Report of Comm'r Shannon.—Filed May 4th, 1872.

United States district court, district of Louisiana. In admiralty.

MERCHANTS' MUTUAL INSURANCE CO.
vs.
THE STEAMBOATS SABINE & RICHMOND. } No. 9823.

To the honorable E. H. Durell, judge of the district court of the
157 United States for the district of Louisiana.

In pursuance of an order of reference made and entered in the above entitled cause on the ninth day of April, 1872, by which it was referred to the undersigned, one of the commissioners of the court to examine and report upon the claims of furnishers of supplies and materialmen., which have been filed in this action and report thereon with all convenient speed, I, Robert H. Shanno, United States commissioner, to whom said matters were referred, do respectfully report:

That I have been attended by B. Egan, esq., proctor for several intervenors whose libels have been filed herein, by G. Campbell, esq., proctor for other intervenors for whom libels have been filed, and by several intervenors in person; that notices of hearing was duly served upon G. S. Lacey proctor for the city of New Orleans, and Thomas Hunton, of the firm of Hunton & Grover, proctors for W. Tait and for Van Meter & Lehman, which said proctors did not attend before me upon
158 the said notices; that I have taken and examined the testimony offered in support of the several claims or interventions filed herein, and also that in opposition to those of M. J. Taylor, Peter S. Brown, and Van Meter & Lehman, and I do find that the following named parties whose interventions and libels have been filed have claims which are maritime liens and should be paid out of the proceeds of the sale of the st'b't Sabine, after deducting the marshal's fees, clerk's fees, the amount allowed and paid to the crew and the salvors of the said steamboat and her cargo, the registrar's fee, leaving a balance in the hands of the said

registrar amounting to the sum of ($2,974.75) two thousand nine hundred and seventy-four dollars and seventy-five cents for distribution to intervenors having claims which are properly maritime liens, which claims are as follows:

M. J. Taylor, mat's furnished	Sabine				18 25
W. Tait,	iron safe for	boat			129 75
Wilson, Fagan & Co.,	supplies	"	"		60 02
Mike Clarke,	do.	"	"		79 00
Charles Fox,	do.	"	"		62 38
David Hughes,	do.	"	"		86 77
159 Noble & Woods,	do.	"	"		551 39
G. F. Miller,	coal	"	"		80 00
McCloskey Bigley & Co.,	do.	"	"		255 00
England, Fallon & Co.,	supplies	"	"		18 50
A. L. Shotwell & Son,	coal	"	"		272 00
Moffett & Brown,	lumber	"	"		14 63
M. Geisman,	supplies	"	"		17 40
N. C. Selby, captain's wages					1,200 00
					$2,842 49

I do further report in relation to the interventions filed herein on behalf of the city of New Orleans that there was no evidence whatever adduced before me in relation to the matters alleged in the libel of intervention filed on behalf of said city, and the said claims are rejected and dismissed; that in relation to the claim or intervention of Surls and Requier for agency, there is no authority for the allowance of this claim as an admiralty lien and it is therefore rejected.

I do further report that the two claims or interventions in the cases of Peter S. Brown and Van Meter & Lehman, the facts are that the st'b't Sabine was built in Jeffersonville, in the State of Indiana, between the 1st day of October, 1871, and the 1st day of December, 1871; that on the said last mentioned date it was launched, and on or about
160 the 8th of December, A. D. 1871, was enrolled and licensed under the navigation laws of the United States; that the only actual and bona fide owners of said steamboat were Mrs. A. B. Selby, the wife of N. C. Selby and R. F. Fuller, both of whom resided in Jeffersonville and State of Indiana; that the home port of the said steamboat was at Louisville, in the State of Kentucky; that the owners of said steamboat are responsible and not insolvent; that the claims of the said Peter S. Brown and Van Meter, Lehman & Co., are and each of them is, for work done upon the said steamboat, and for materials furnished to said steamboat between the 1st day of October, 1871, and the 1st day of December, 1871, and before the launching or enrolling of said steamboat; that the owners of said steamboat reside at Jeffersonville, Indiana, and can be prosecuted for said claims in personam; and that these two claims are not, according to the admiralty and maritime law, liens upon the said steamboat or any of the proceeds arising from its sale, and there-
161 fore I have rejected them. (See Young vs. The Orpheus, 2 Ciff., 29; People's Ferry Co., vs. Beers, 20 How., 393; Roach vs. Chapman, 22 How., 129; Mitchell vs. The Magnolia, 45 Mo., 67.) Other cases can be cited in favor of this doctrine, but the above are considered sufficient to sustain the views entertained by me in relation to the claims of Brown, and Lehman and Van Meter.

May I be permitted to suggest to the court that a more strict enforce-

ment of, and compliance with the 34th admiralty rule on the part of proctors and parties would render the decision and settlement or adjustment of intervening claims much less troublesome and difficult than it now is, in requiring proof of such claims, when they could be disposed of by requiring answers to be filed in all cases where there is an appearance of some of the contesting parties in an admiralty cause. The system now prevailing is a very loose and unsatisfactory one for all parties concerned, which may be entirely avoided by enforcing the rule to which I have referred.

All of which is respectfully submitted.

Dated, New Orleans, May 3d, 1872.

R. H. SHANNON,
U. S. Comm'r.

Comm'rs' fees and charges, $150.00.

162 *Exception to Comm'r's report.—Filed May 9th*, 1872.

U. S. dist. court.

MERCHANTS' MUTUAL INS. CO.
vs.
ST'RS SABINE & RICHMOND.

Given Campbell, proctor for str. Richmond, & Peter S. Brown oppose the homologation of Comm'r Shannon's report—

1st. Because he allows N. C. Selby's claim in full as a maritime claim, when Selby, the master, in law has no such claim.

2. Because he rejects entirely the claim of Peter S. Brown, who if he has no admiralty claim can certainly be allowed to intervene against the remnant in the registry after paying lien claims, and if N. C. Selby's claim is deducted, then there will be a remnant.

3. Because nothing is left to pay costs of these consolidated cases.

Exceptions to comm'r's report.—Filed March 9th, 1872.

163 United States district court, district of Louisiana. In admiralty

MERCHANTS' MUTUAL INSURANCE CO., INTERVENORS,
vs.
ST'BOATS RICHMOND & SABINE & GREEN & Selby, masters.
} No. 9823.

The Merchants' Mutual Insurance Company, and intervenes in the above entitled libel, now, by their proctors, M. M. Cohen and Albert Voorhies, come and except to and oppose the report of Mr. Commissioner Shannon, filed for hearing the 9th day of May, 1872, on the following grounds:

1st. That said report recommends a distribution of the proceeds of the sale of the Sabine to material men and to the master of the Sabine, and that should such distribution be made, the fund remaining would be insufficient to meet the claims of said insurance company, and intervenors, represented by these proctors for damage by collision; and that by the admiralty law in cases of collision, if the guilty ship is insufficient to meet all demands, the lien of damage must be first satisfied.

164 2nd. That in admiralty the master has no lien on the vessel for wages, and, in this case, is one of the defendants.

3d. That these opponents were never notified that any hearing would be had or testimony taken at any time or place by the commissioner.

Wherefore opponents pray that these exceptions be maintained, and the fund now in the registry be held by the registrar subject to the final order of this honorable court.

M. M. COHEN,
ALBERT VOORHIES,
Proctors for Opponents.

Hearing & submission of report.—From minutes of 9th May, 1872.

MERCHANTS' MUTUAL INS. CO. *vs.* ST'BOATS SABINE & RICHMOND. } 9823.

The rule to homologate the commissioner's report was called—B. Eagan, M. M. Cohen, A. Voorhies, G. Campbell—when, after hearing the exceptions and argument, the court took time to advise.

165 *Order, exceptions overruled & leave granted libellant to amend.*

MERCHANTS' MUTUAL INS. CO. *vs.* ST'B'TS SABINE & RICHMOND. } 9823.

The exceptions filed by the owners of the st'r Richmond to the libel & interventions came up—M. M. Cohen, for libellants; Given Campbell, for exceptors—when, after hearing the pleadings and arguments, for reasons orally assigned, it was ordered that the exception be overruled and leave granted to libellants to amend their libels if they deem it necessary or desire so to do.

2d report of Comm'r Shannon.—Filed February 28th, 1873.

United States district court, district of Louisiana. In admiralty.

MERCHANTS' MUTUAL INS. CO., LIBELLANTS, *vs.* THE STEAMBOATS SABINE & RICHMOND, RESP'D'TS. } No. 9823.

To the honorable E. H. Durell, judge of the district court of the United States for the district of Louisiana.:

166 In pursuance of the order heretofore made referring back to *to* undersigned, one of the commissioners of this court, the claims of furnishers of supplies, materialmen, &c., which have been filed in this action, I, the undersigned, do respectfully report:

That I have been attended by Messrs. M. M. Cohen and A. Voorhies, proctors for libellants; B. Egan, esq., proctor for several intervenors herein and for the steamboat Sabine; Randolph, Singleton & Browne, proctors for other intervenors; G. Campbell, esq., for I. I. Barr & others; that I have examined the testimony in support of the several claims referred to and filed; and have also examined the entire record in re-

lation to the said claims and interventions, and I find that, with a few exceptions, they are entitled to a participation in the balance of the proceeds which remains in the registry of the court after the payment of other prior claims which were allowed prior and up to the time when the said interventions were sent to me for examination, unless the whole of the said balance shall, under the decision of the court in the
167 case of the above-named libellants against the steamboat Sabine be decreed to belong to the said libellants.

The proceeds arising from the sale of the steamboat and received by the marshal of this court was $7,600.00, out of which he retained the sum of $490.50, leaving a balance of $7,109.50, which was paid over by him into the hands of the clerk of this court subject to the orders of the court. After this payment to clerk or registrar the following amounts were ordered to be paid and were paid by the said clerk, to wit:

1872.				
April	10.	Paid	crew	1,063 22
"	25.	"	salvors	2,533 33
May	9.	"	Comm'r Shannon for report	150 00
June	7.	"	Egan for printing expenses	200 00
"	13.	"	Heartt, appraiser	150 00
				$4,096 55

Which, being deducted from the balance in the hands of said clerk, left a balance of $3,012.95, which is subject to a further deduction of the costs of the clerk, registrar, balance of the marshal's cost, and a commissioner's fee for the amended report and services connected therewith, the amounts of which are as follows:

168	Clerk's fees or costs	627 15
	Registrar, 1%	76 00
Balance marshal's costs		135 00
Commissioner's fee, 2d report		150 00
		$988 15

The above sum being deducted from the balance in the registry of the court, viz, $3,012.95, leaves the sum of $2,024.80 to be distributed among the intervenors whose claims have been referred to me whom I consider ought to participate in such distribution, with the exception of John Kavanagh, one of the crew of the steamboat Sabine, and whose claim was not before the court with the balance of the crew when they were ordered to be paid.

The claim of John Kavanagh has been duly proved, and he is entitled to the amount of his wages for seventeen days from December 28th, 1871, to January 14th, 1872, at the rate of forty-five dollars per month, which amounts to $25.50.

In regard to the claims of Peter S. Brown & Lehman & Van Meter, reported upon by me as fully set forth in my report filed herein on the 4th of May, A. D. 1872, I have fully expressed my views con-
169 cerning those claims, and since filing of that report I have had nothing offered to me to cause a change in what is stated in that report.

As to the claim of John J. Barr & Co., which has been referred to me since the filing of my former report, I find from the evidence produced

before me that between the 16th and 30th of January, 1872, that firm sold and delivered to R. F. Fuller, alleged to be one of the owners of the St'b't Sabine, certain goods, consisting of flour and molasses, which in all amounted to the sum of $773.85; that the said goods at the time of the delivery thereof to the said steamboat were insured for account of the said firm of J. J. Barr & Co.; that the said goods were to be taken by the said Fuller on the said boat up the Mississippi River to the place of destination to and from which the said boat ran, and then to be sold, with the agreement on the part of said Fuller on the return of said boat to New Orleans the proceeds of sale of said goods to be accounted for to the said firm; that a part of said goods, in all amount-
170 ing to $473.75 were sold by the said Fuller, and the money obtained therefore was never accounted for to the firm of J. J. Barr & Co. by the said Fuller. These goods, though sold and delivered in good faith by the said firm of J. J. Barr & Co. to the said Fuller, and apparently with the knowledge on the part of Capt. N. C. Selby, the master of the said steamboat, that they were delivered on the said steamboat and some of them sold by the said Fuller, and the proceeds devoted to the use of the said steamboat, at least to the amount of $473.75, yet as they were not properly the supplies necessary for the use of said steamboat, and for which an admiralty claim or lien was created or existed, I am reluctantly constrained to report against its allowance without prejudice to the said firm of J. J. Barr & Co. to prosecute for the same in some other form of action or proceeding.

A small bill of Alfred Ingraham, amounting to $6,000 for commissioner's fees for jurats to libels, &c., has also been prosecuted for allowance. No intervention has been filed for such claim, and I am unable to see upon what ground it can be allowed by me. It seems to me that it
171 has no connection with any of the matters referred to me for a report, and as it has never been proved or substantiated in the suit entitled at the head of this report, it is disallowed as before me, but would suggest that Mr. Ingraham's bill be filed with the clerk of this court as part of the costs in the case, to be allowed by him and paid out of the proceeds in the hands of said clerk.

The proctors for the libellants in this suit have urged before me their objection against any distribution whatever of the proceeds of the sale of the steamboat Sabine upon the ground that the libellants have a priority over all other liens or claims arising out of the matters alleged and set forth in the libels filed in this action, which should first be paid and satisfied before that of any of the intervenors herein.

I have not undertaken to dispose of that objection as it will be determined by the court before which this case is now pending between the libellant and the two steamboats involved in the litigation in this suit. In case this objection thus made by the proctors for the libellants
172 is not sustained, there will then remain in the hands of the registry of the court, after deducting the claims above specified and which have a preference over all others, a balance of $1,999.30 for division among the intervenors, as follows :

M. J. Taylor	18 25
W. Tait	127 75
Wilson, Fagan & Co	60 02
Mike Clarke	79 00
Charles Fox	62 38
David Hughes	86 67
Noble & Woods	551 39
G. F. Miller	80 00

McCloskey, Bigley & Co	255 00
England, Fallon & Co	18 50
A. L. Shotwell & Son	272 00
Moffett & Brown	14 03
M. Geisman	17 40
	$1,639 74

This would still leave a balance in the hands of the registrar of the court subject to its order and direction, a balance of $359.56.

The claim of Captain N. C. Selby, the master of the said steamboat, upon his intervention filed herein is disallowed.

All of which is respectfully submitted.

Dated New Orleans, February 27th, 1873.

R. H. SHANNON,
U. S. Commissioner.

173 *Libellants' opposition to 2d report.—Filed March* 18, 1873.

United States district court for the district of Louisiana in admiralty.

MERCHANTS' MUTUAL INS. CO.
vs.
ST'BOATS RICHMOND, SABINE, & OWNERS. } No. 9823.

The libellants in the above-entitled cause now, by their proctor, M. M. Cohen, come and except to the report of Mr. Commissioner Shannon, fixed for hearing on the 18th March, 1873, on the following grounds:

First. That in so far as said report makes a distribution of the proceeds of the sale of the Sabine to materialmen and to furnishers would be illegal, because, should such distribution be ordered by the court, it would leave in the registry but $359\frac{56}{100}$ out of the $7,600 for which said Sabine was sold, which sum of $359\frac{56}{100}$ would be insufficient to meet the demands of these opponents for damages by collision, and that, by the admiralty law, in cases of collision, if the guilty ship is insufficient to meet all demands, the lien of damage must be first satisfied.

174 Second. That these opponents were never notified that any hearing would be had or testimony taken at any time or place by the commissioner, and the only notice was that the commissioner's report will be ready for examination.

Third. That, on exceptions, the same as the above, filed May 9th, 1872, by their proctor in this case, to the report of this commissioner, it was ordered, on the 18th May, 1872, that the exceptions be sustained, said report rejected and referred back to Mr. Shannon for further proceedings after notice to the interested parties, due regard to be had to the exceptions and the points therein raised (see admiralty minutes, page 87.)

Opposition of Van Meter & Lehman to 2d report.—Filed March 18, 1873.

MERCHANTS' MUTUAL INS. CO.
vs.
ST'R SABINE, &C.

And now come Van Meter & Lehman, by their proctors, and oppose

the adoption of the report of Com'r Shannon, because the said Van Meter & Lehman held a mortgage on the said steamer Sabine for machinery and furniture furnished to the said steamboat, duly re-
175 corded, and are entitled to be paid out of the proceeds of sale by priority over the other creditors, and the said report wholly rejects the said mortgage claims.

THO. HUNTON, *Proctor.*

Order to pay Kavanaugh and suspending further action on report.—From minutes of 18 *March*, 1873.

MERCHANTS' MUTUAL INS. CO. *vs.* ST'RS RICHMOND & SABINE. } No. 9823.

The rule to homologate the 2d report of the commissioner was called—Present: B. Egan, M. M. Cohen, Thos. Hunton, E. Warren—when, after hearing the oppositions filed to the report and the argument of counsel, it is ordered that the claim of John Kavanaugh, mariner, for $25.50, and the costs of the clerk, registrar, marshal, & commissioner, specified in said report, be paid, and that in all other respects the action of the court upon said report be suspended till further orders.

176 *Petition and order subrogating Factors' and Traders' Ins. Co. et als. to claims of Lehman, Newgass & Co. et als., intervenors.—Filed May* 3*d*, 1873.

To the honorable E. H. Durell, judge of the district court of the United States for the district of Louisiana:

The petition of the Factors' and Traders' Ins. Co., of the Merchants Mutual Ins. Co., of the New *New* Orleans Mutual Insurance Co., of the Crescent Insurance Co., of the Home Mutual Ins. Co., of the Commercial Insurance Co., and the Sun Mutual Ins. Co., all of which are incorporated under the laws of Louisiana, and are domiciled in the city of New Orleans, in the district of Louisiana, humbly showeth, that since the intervening libels were filed in the case No. 9823 of the docket of this hon. court in admiralty entitled The Merchants' Mutual Insurance Co. & Intervenors vs. The Steamboats Richmond & Sabine & their masters, your petitioners have been subrogated, as more particu-
177 larly hereinafter set forth, to the rights of the said, that is to say: The New Orleans Mutual Association for ¼; the Merchants' Mutual Insurance Co. for ¼, and the Crescent Mutual Insurance Co. for one-half to the rights of Lehman, Newgass & Co.; the Factors & Traders' Insurance Co. to the rights of Jurey & Gillis, & of Bussey & Co., & of Musson, Prestidge & Co., & of Winston, Morrison & Co., & of Johnson, Goodrich & Co., & of Clapp Bro's & Co., & of H. W. Farley & Co., & to one half of the rights of Penn, Pace & Simmons, & one-half of the rights of John Phelps & Co.; the New Orleans Mutual Insurance Ass'n to the rights of B. M. Howell & Co., & of Stewart & McCarthy, & of Broadnax & Campbell, & of Golsan & Bro's; the Crescent Mutual Insurance Co. to the rights of T. & S. Henderson & of A. Levi & Co., & Campbell & Strong, & to one-half of the rights of Penn, Pace & Simmons, & of one-half of the rights of John Phelps & Co.; the Home Mutual Insurance Co. to the rights of J. P. Higgins & Co., & of Camp-

bell & Co.; the Commercial Insurance Co. to the rights of Payne, Dameron & Co., and the Sun Mutual Insurance Co. to the rights of
178 Levi & Haas & of W. J. Frierson & Co., of R. Flower & Co.

Wherefore petitioners pray that they may be substituted on the record in this case in the place and stead of the original intervenors aforesaid, and allowed to proceed in the further progress of this case as the original intervenors might & could have done if these petitioners had not been subrogated to their respective rights, and petitioners pray for general and equitable relief.

M. M. COHEN,
For himself and for A. Voorhies, Proctors for Pet'rs.

Let the prayer of this petition be granted.
May 3, 1873.

E. H. DURELL, *Judge.*

Petition for appeal, filed May 7th, 1873.

U. S. district court., dist. of Louisiana.

MERCHANTS' MUTUAL INS. CO. & INTERVENORS
vs.
ST'BTS RICHMOND & SABINE, AND THEIR MASTERS. } 9823.

The said libellants, the Merchants' Mutual Ins. Co. and the intervening libellants, the Mechanics & Traders' Insurance Co., and the following named insurance companies substituted by order of this hon. court,
179 on the 3d day of May, 1873, in the place and stead of the original intervenors in the case, the names of which original intervenors are set forth in the petition on which said order was made, viz: The Factors & Traders' Insurance Co., the Merchants' Mutual Insurance Co., the New Orleans Mutual Ins. Asso'n, the Crescent Mutual Ins. Co., the Home Mutual Ins. Co., the Commercial Mutual Ins. Co., the Sun Mutual Ins. Co., conceiving themselves aggrieved by the final decree herein entered on the day of, and signed on the day of , dismissing the libel & intervening libels against the st'b't Richmond & her master, do hereby appeal from the said final decree to the next circuit court of the U. S., to be held in and for the said district, and they pray that this appeal may be allowed, and may operate as a suspensive appeal, & that a transcript of the record, duly authenticated, may be sent to the said circuit court, and for general and equitable relief.

M. M. COHEN,
For himself,
A. VOORHIES,
Proctors for Appl'ts.

180 *Motion and order of appeal.—Form minutes of 7th May*, 1873.

MERCHANTS' MUTUAL INSURANCE CO., & INTERVENORS
vs.
ST'BTS RICHMOND & SABINE, AND THEIR MASTERS. } 9823.

On motion of M. M. Cohen, for himself & A. Voorhies, proctors for

libellants, and for the intervening libellants, the Mechanics & Traders' Ins. Co., and for the following named insurance companies, substituted by the order of this court, on the 3d day of May, 1873, to the original intervenors herein, the names of which original intervenors are set forth in the petition on which said order was made, viz, the Factors & Traders' Ins. Co., the Merchants' Mutual Ins. Co., the New Orleans Mutual Ins. Association, the Crescent Mutual Ins. Co., the Home Mutual Ins. Co., the Commercial Ins. Co., and the Sun Mutual Insurance Co., and on showing to the court that the desire to appeal from the final decree herein rendered on the 14th day of April, 1873, and signed on the , whereby the libel and intervening libels against the steam-

181 boat Richmond were dismissed, and that they have this day filed their petition for such an appeal, it is ordered that the said libellants and Merchants' Mutual Insurance Co., and the intervening libellants, the Mechanics & Traders' Insurance Company, substituted in the place and stead of the original intervening libellants by the order of this hon'ble court, made on the 3d day of May, 1873, on the petition of the insurance companies, have and be allowed an appeal from said final decree, to operate as a supersedeas, returnable to the circuit court of the U. S., in and for the district of Louisiana, at the next term of said circuit court to be held in and for said circuit, on their giving bond in favor of the claimants, the owners of said steamboat Richmond and her master, in the sum of $250, with good and solvent security, as the law directs, each company in proportion to the amount of its demand.

Rule to dismiss appeal.—Entered & filed May 9th, 1873.

182 MERCHANTS' MUTUAL INS. CO. & AL. *vs.* ST'B'T RICHMOND. } No. 9823.

On motion of Given Campbell & Billings & Hughes, proctors for the St'b't Richmond, and on suggesting to the court that the delay for appealing had expired previous to filing the motion or petition for appeal in this case, it is ordered that the said Merchants' Insurance Co. and others do appear in this hon. court on Friday, the 9th May, and show cause why the appeal in this case taken by them should not be dismissed, and, if the court should maintain same, why said bond should not be enlarged to the sum of three thousand dollars.

And service being accepted, the rule was taken up—Given Campbell for relator, M. M. Cohen for defendants in rule—when, after hearing argument, the court took time to advise.

Order dismissing appeal of Merch'ts' Mut'l Ins. Co. & intervenors.—From minutes of 14 May, 1873.

183 MERCHANTS' MUTUAL INS. CO. ET ALS. *vs.* ST'RS RICHMOND & SABINE. } No. 9823.

Ordered that the rule taken on 9th instant on behalf of the Steamer Richmond be made absolute, & that the appeal taken by the Merchants' Mutual Insurance Co. and intervenors on 7th instant be dismissed with costs.

Motion and order to pay Richmond.—From minutes of 17th May, 1873.

SHIRLEY ET AL.
vs.
ST'R RICHMOND. } 9822.

MERCH'TS' MUT. INS. CO. & AL.
vs.
ST'RS RICHMOND & SABINE.. } 9822.

On motion of Given Campbell, proctor for the owners of the st'r Richmond, suggesting that upon bonding the st'r Richmond in the above cases these owners advanced clerk's fees, $169.45; app'r's fees, $250; and marshal's fees, $693.90; in all, $1,113.35; that on the 14th April, 1873, the libel of the Steamer Sabine was dismissed with costs, and that upon the libel of the Merchants' Mut. Ins. Co. and intervenors judgment was also rendered in favor of the Richmond; that the st'r Sabine
184 was sold & the proceeds deposited in court, and that these movers are entitled to be refunded all costs they advanced on bonding, the decree of the court being in their favor; ordered that the registrar be authorized to pay these movers $1,113.35 out of the registry fund in this case.

Rule for new trial of rule to dismiss appeal.—Entered & filed May 17 1873.

U. S. district court, district of Louisiana.

MERCHANTS' MUTUAL INSURANCE COMPANY & intervenors
vs.
ST'B'TS RICHMOND & SABINE & THEIR MASTERS.

On motion of M. M. Cohen & A. Voorhies, proctors for libellants, it is ordered that the respondents, the St'b't Richmond & her masters, show cause, on Saturday next, the 24th day of May, 1873, at 11 a. m., why a new trial of the rule to dismiss the appeal taken by libellants should not be granted, on the following grounds:

First. That the rule to dismiss said appeal was improperly taken in the district court, and the order of dismissal granted by the judge of the said court, who had no jurisdiction to try said rule after appeal allowed.

Second. Because when said appeal was dismissed, an order was
185 still spending granting to all parties ten days after the report of Mr. Com'r Shannon, in which ten days to take an appeal, and he has not yet reported, and which order allowing said delay of ten days was discontinued in an ex-parte motion by a proctor, who was not of record as proctor in these consolidated cases, and in behalf of only one individual party to the record.

Third. Because, by the act of Congress approved 1st June, 1872, and the decision of the Supreme Court of the United States, libellants had sixty days from the rendition of the decree to file a bond, upon the filing of which said appeal will operate as a supersedeas, and said decree was rendered on the 14th day of April, 1873.

Fourth. Because the making absolute the rule to dismiss said appeal was contrary to law, and contrary to the recent precedent in this honor-

able court in the case of Skipper vs. Era No. 9, wherein the proctors for these libellants were proctors for appellants, under which precedent these libellants took the appeal against the Richmond & her mas-
186 ter.

Fifth. Because, as there is no "rule" in this honorable court fixing the delay for an appeal which will operate as a supersedeas, the rule of the Supreme Court of the United States adopted May 6th, 1872, allowing 30 days from the rendition of the decree in which to take an appeal should have prevailed if the act of Congress aforesaid, approved 1st June, 1872, did not govern the case, and the appeal in this case was taken in less than thirty days from the rendition of the decree.

Service accepted.

GIVEN CAMPBELL,
Proctor.

MAY 20, 1873.

Appeal bond.—Filed June 7th, 1873.

UNITED STATES OF AMERICA,
District of Louisiana:

Appeal bond.

THE MERCHANTS' MUTUAL INSURANCE COMpany & interveners
vs.
STEAMBOATS RICHMOND & SABINE & THEIR masters.
} No. 9823.

Know all men by these presents that we, the Merchants' Mu-
187 tual Insurance Company, the Crescent Mutual Insurance Company, the Sun Mutual Insurance Company, the Commercial Insurance Company, the New Orleans Mutual Insurance Company, the Factors & Traders' Insurance Company, the Home Mutual Insurance Company, & the New Orleans Mutual Insurance Association, as principals, and Paul Fourchy, Thomas A. Adams, James J. Day, & J. H. Oglesby, Jules Tuyes, Harmon Doane, A. Brother, and Charles Cavaroc, as sureties, are held and firmly bound unto the steamboat Richmond and Nat. S. Green, her master, and to Nat. S. Green, John N. Boffinger, Theodore Lavielle, Stillwell, Powell & Co., Carter & Conn, her owners, in the sum of three thousand dollars, to be paid to the said steamboat Richmond and to Nat. S. Green, her master, and to Nat. S. Green, John N. Boffinger, Theodore Laville, Stillwell, Powell & Co., Carter & Conn, her owners, for the payment of which, well & truly to be made in lawful money of the United States, we bind ourselves and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents, sealed with our
188 seals and dated at New Orleans the seventh day of June, 1873.

Whereas the above-named Merchants' Mutual Insurance Company, the Sun Mutual Insurance Company, the Commercial Insurance Company, the New Orleans Mutual Insurance Company, the Factors & Traders' Insurance Company, the Home Mutual Insurance Company, the Crescent Mutual Insurance Company, and the New Orleans Mutual Insurance Association have appealed to the next term of the circuit court of the United States for the 5th circuit and district of Louisiana from a final judgment of the district court of the United States for said district, rendered against the Merchants' Mutual Insurance Company and the interveners, to whom these appellants are subrogated, on the

14th day of April, 1873, and signed on the day of , 187 , in the above cause.

Now, therefore, the condition of this obligation is such, that if the above-named appellants shall prosecute their appeal to effect, and answer all damages and costs, and satisfy whatever judgment may be rendered against them if they make their appeal good, then this
189 obligation to be void; otherwise the same shall be and remain in full force and effect.

FACTORS & TRADERS' INS. CO.,
H. DOANE, *Pres't.*
NEW ORLEANS M'L INS'CE COMPANY,
J. TUYES, *P't.*
SUN MUT. INS. CO.,
JAMES J. DAY, *Pres't.*
HOME MUT. INS. CO.,
A. BROTHER, *Pres't.*
N. O. MUTUAL INS. ASSO'N,
C. CAVAROC, *Pres't.*
MERCHANTS' MUTUAL INS'CE CO.,
P. FOURCHY, *Pres't.*
CRESCENT MU. INS. CO.,
THOS. A. ADAMS, *Pres't.*
COMM'L INS. COMPANY,
J. H. OGLESBY, *Pres't.*
MECHANICS & TRADERS' INS. COMPANY,
LLOYD R. COLEMAN, *Pres't.*
H. DOANE.
J. TUYES.
JAMES J. DAY.
A. BROTHER.
C. CAVAROC.
P. FOURCHY.
THOS. A. ADAMS.

On the 7th day of June, 1873, appeared before me the above named sureties and made oath that they reside in this city & are worth each the sum of $3,000 over and above all his debts.

K. LOEW,
U. S. Com'r.

190 On the 11th June, 1873, appeared before me the undersigned sureties, J. H. Oglesby & Lloyd R. Coleman, & made oath that they reside in this city & are worth each the sum of $3,000 over & above all his debts.

LLOYD R. COLEMAN.
J. H. OGLESBY.
K. LOEW,
U. S. Com'r.

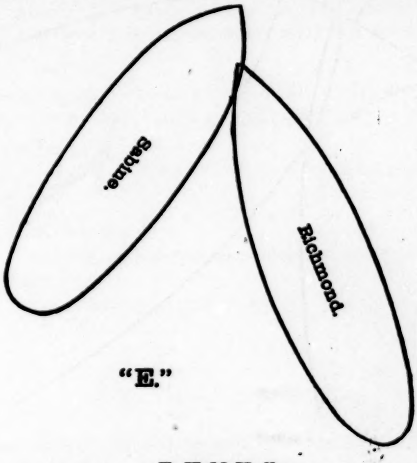
Order allowing appeal.—Extract from minutes of 9th June, '73.

MERCHANTS' MUTUAL INS. COMPANY & INTERvenors,
vs.
ST'RS RICHMOND & SABINE. } No. 9823.

Considering the order herein made on the 24th April, 1873, extend-

ing the time to any and all parties desirous of appealing in the premises until 10 days after the homologation of the commissioner's report, it is ordered that the decree made on the 14th May, 1873, dismissing the appeal taken by the Merchants' Mutual Insurance Company and intervenors be set aside, and that the appeal prayed for by said company and intervenors be allowed.

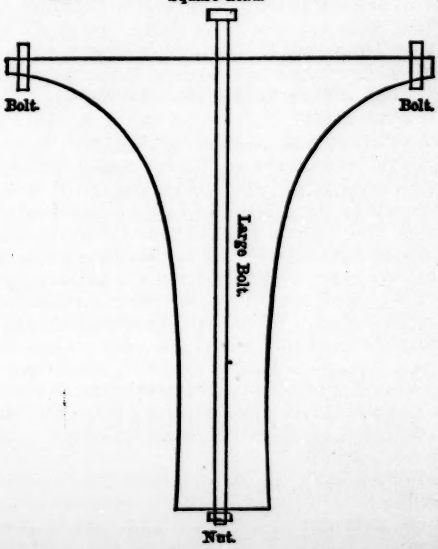
190‡ *Diagram referred to in deposition of Jesse McHarvey, page 309 original manuscript & page 415 of the printed record.*



"E."

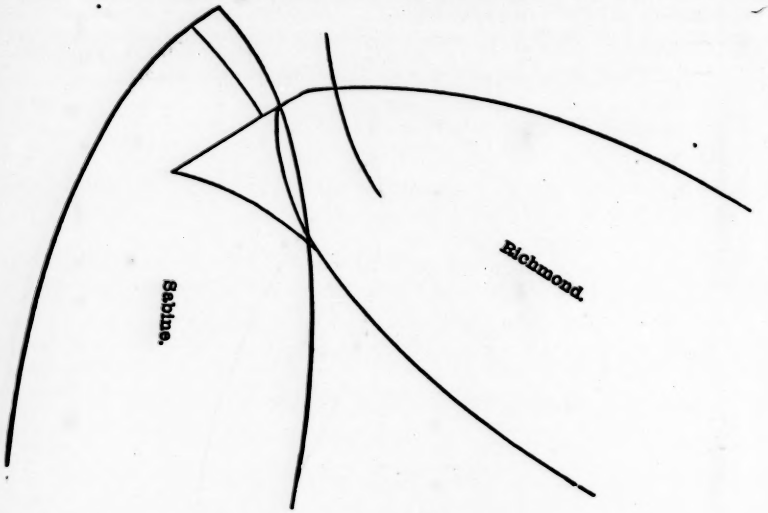
E. H. McHaffie.

"F."



The knee referred to.

190½ *Doc't G. G. filed with testimony of J. McHaffie. G. G. 9822, 9823. Filed with testimony of McHaffie May 25, '72.*



191 *Testimony taken before the local inspectors at N. O., La., 16 Feb'y, '72.*

In the matter of the collision of the st. b'ts Richmond & Sabine.

Testimony of Thos. J. Harrison.

Personally appeared before this board THOMAS J. HARRISON, who made the following statement:

I am one of the pilots of the steamer Sabine, and was on duty at the time of the collision of the steamers Sabine and Richmond on the 11th instant at about 2 o'clock a. m., just under 12 mile Point.

While coming down in the middle of the river and while just making the turn to round the point, I heard a signal of one blast of the the whistle, but could not tell whether it was the steam cars or a steamboat, the cars having just passed and no steamboat being visible. I heard this signal about half an hour previous to the collision. The point referred to is 18-mile Point. When coming round 12 mile Point, seeing an ascending steamer in the bend, I blew two whistles to which
192 she answered by one. The other boat, which proved to be the Richmond, was distant about one mile when I blew the first signal of two whistles. About three minutes after I blew the first signal I blew the 2nd signal. When I stopped the engines of our steamer, we were apart about 3 or 400 yards.

Immediately after blowing the 2nd signal of two whistles, I stopped the engines of my boat. I thought the Richmond had landed in the bend, because I could see only her red signal light. I am positive I saw the red signal light only. Previous to stopping the engines, the boat had

been running under a slow bell, say about 3 or 4 minutes. We had a heavy load of cotton on. Under these circumstances, I think she would check her headway in about 1½ or two minutes and take stern way. We collided in about 1½ or two minutes after stopping my engines.

On blowing my 2d signal of two whistles and hearing the only signal (of one blast) from the Richmond, we were apart about 250 yards,
193 at which time I still saw the red signal light and that one alone.

We were struck on the starboard side, a little aft of the derricks, the result of which was that our boat sunk. The river at this place is from ¾ths to 1 mile wide. The boats came together under 12-mile Point about 70 yards from the left-hand shore coming down stream.

By C. J. DUFF:

I kept close in to the left-hand shore, in order to give the Richmond the bend side, as she was coming up the bend.

By the BOARD:

The ascending steamer did not call for the bend side, but for the Point side. As soon struck I endeavored to run her into the bank.

By N. C. SELBY:

There was nearly the whole of the river to the bend side of the Sabine.

(Signed) T. J. HARRISON.

Sworn to & subscribed before us this 12 day of February, 1872.

(Signed) W. C. FLANDERS,
Local Inspector.

Testimony of M. C. Levi.

194 Personally appeared before the board, M. C. LEVI, who made the following statement:

I was third clerk of the steamer Sabine, & was so employed at the time of collision with the steamer Richmond, and was standing on the pilot house at the time. Had been there about half an hour. I had been in the pilot house about 12 or 15 minutes when I noticed some steamer deep in the bend, coming up the river, at least so I supposed. I saw only one signal light & that was the red one. I remarked to the pilot that I saw but one (red) light, & asked him where would the green light be. I do'nt know whether he replied to me or not, though I feel satisfied he saw the steamer. I think our boat at this time was about 100 or 150 yards from the Point shore. Just before sighting the Richmond I heard one blast of the steam whistle in that direction. After rounding the Point, our pilot remarked that the signal was blown for him and then replied by two blasts, this being the first signal
195 given on our boat. The Richmond being still in sight & distant about one half a mile. I heard no reply to this signal. About 2 or 3 minutes after sounding the first signal, our boat repeated it, which, I believe, was answered by one blast, the boats being at this time about 40 or 50 yards apart.

Immediately after sounding the 2d signal our pilot rang his engine bells to stop & back, & I am positive that she was stopped, & I believe she was backed. During the whole time I never saw but the red signal light.

We left Baton Rouge at about 12 or 1 o'clock on the 10th in the morning. I think the collision occurred between two and three o'clock a. m. of the 11th instant.

(The last two questions asked by Mr. Duffy, pilot on watch, steamer Richmond.)

(Sig.) M. C. LEVI.

Sworn to & subscribed before us this 15th day of Feb'y, 1872.

W. C. FLANDERS,
J. A. MOFFETT,
Local Inspectors.

Testimony of D. Trunnell.

Personally appeared before this board D. TRUNNEL, who made
196 the following statement:

I was *met'* of the Sabine, & was on the roof at the time of the collision with the steamer Richmond. I came on watch at one o'clock a. m. of the 11th instant, and remained on the roof until about 5 minutes previous to the collision. I was standing on the foot of the steps to the main deck when I heard our boat blow her whistle, two blasts, to which I heard no reply, nor did I see any steamboat nor a steamboat's lights; at which time the boat was nearly in the middle of the river. I then went upon the roof and saw some black object to my right ahead, which I knew to be a steamboat apparently ascending. This was about 3 or 4 minutes previous to the collision.

Immediately after the collision I noticed the Richmond's red signal light, & saw no other.

After getting on the roof our boat again blew two whistles, and this was about three-quarters of a minute previous to the collision.

When I first saw the Richmond she was distant about three times her own length, she being 340 feet long; at which time I re-
197 marked to the pilot, "Are you backing?" to which he replied that he had already been backing strong.

I saw no signal light at any time except the red one already mentioned. I think that the river at this place is from ⅞ths to one mile wide; the collision happening about one-quarter of a mile from the left-hand shore, going down stream.

I heard no signals from the Richmond at any time except an exchange of signals after the collision, which were for assistance. The night was dark, but starlight, & I considered a good night. The Richmond struck us head on about the cavil (forward) on the starboard side. I noticed on coming on watch that our signal lights were in proper position and burning well. We used extra caution by way of extra lights on the forward part of the cotton.

(Sig.) D. TRUNNEL.

Sworn to & subscribed before us this 14th day of Febr'y, 1872.

W. C. FLANDERS,
J. A. MOFFETT,
Local Inspectors.

198 *Testimony of D. W. Ensminger.*

Personally appeared before this board D. W. ENSMINGER, who made the following statement:

I was one of the pilots of the st'r Sabine, & was in the pilot-house at the time of the collision with the steamer Richmond.

When I first saw the Richmond we were about one-quarter of a mile

above the Point, descending about one-third the width of the river from the left-hand shore, going down stream.

I supposed her to be ascending, & saw only her red signal light. I then heard one blast of a steam whistle, which I supposed to be hers, but did not know whether it was intended for us or not, she being distant about one mile. Not knowing whether this signal was for us, we ran about one minute & then the Sabine blew a signal of two blasts, being then full one-half a mile apart. Seeing there was more room on the port side, the Sabine was directed for that shore.

Immediately after the Sabine blew two blasts, to which the
199 Richmond replied by one blast, at which time the steamers were about 250 yards apart. The engines were not stopped at the time the last signals were blown. The bells were rung immediately after to stop & back the engines, & they collided in about two or three minutes thereafter. I remarked to Mr. Harrison that there was a steamer ascending, to which he answered he believed she was. I suppose the proper place for an ascending boat is on the Point side.

(Sig.) D. W. ENSMINGER.

Sworn to & subscribed before us this 14th day of February, 1872.

W. C. FLANDERS,
J. A. MOFFETT,
Local Inspectors.

Testimony of R. F. Fuller.

Personally appeared before this board R. F. FULLER, who made the following statement:

I was first clerk of the steamer Sabine at the time of the collision with the steamer Richmond on the 11th instant. I went to bed, dressed,
200 at about 12 o'clock midnight, but was not asleep, and, on hearing the crash, jumped up and looked out of the window, & saw the steamer Richmond lapped alongside of us, with a heavy crash, her larboard side to our starboard side. I then ran out forward and saw some steamer (which afterwards proved to be the Richmond) out in the river, & then cried out to her to come and take our passengers off, as we were sinking, & noticed that the Richmond bow was covered with cotton displaced from our boat by the collision. I should have said the Richmond's larboard bow. The boat sunk shortly after the collision—one colored passenger missing.

(Sig.) R. F. FULLER.

Sworn to & subscribed before us this 16th day of February, 1872.

(Sig.) W. C. FLANDERS,
J. A. MOFFETT,
Local Inspectors.

STATE OF LOUISIANA,
District of New Orleans:

OFFICE U. S. LOCAL INSPECTORS OF STEAM VESSELS.

I, Wardell C. Flanders, U. S. local inspector of hulls, & by regula-
tions of the Treasury Department of the United States custodian
201 of the records of the board of U. S. local inspectors of steam vessels for the district of New Orleans, do hereby certify the above and foregoing to be true and correct copies from the originals thereof on file in this office.

Witness my hand and official seal, at the city of New Orleans, this 16th day of Feb'y, A. D. 1872.

[SEAL.] W. C. FLANDERS,
Insp. of Hulls.

District court of the United States for the district of Louisiana.

I certify that the foregoing 211 pages, together with the 609 additional pages, bound as vol. 2 separately from the present vol. 1 for the convenience & court and counsel, the same being very voluminous, contain and form a complete & correct transcript of the original record in the consolidated cases of Sarah C. Shirley & al. vs. St'r Richmond, and the Merchants' Mutual Insurance Co. & Intervenors vs. The St'm'rs Sabine & Richmond, Nos. 9822 & 9823 of the docket, with the exception of diagram at page 196, and document marked G. G. at page 197, which are originals, and with the further exception of plans X
202 & Y, diagram A, and 7 photographs, which accompany the transcript as part thereof.

In faith whereof I hereto set my hand and the seal of our said court, at New Orleans, this 18th August, 1873.

[SEAL.] (Signed) K. LOEW,
D'y Clerk.

Testimony copied from vol. 2, referred to in foregoing certificate.

United States district court, district and State of Louisiana. In admiralty.

SARAH C. SHIRLEY AND OTHERS *vs.* STEAMBOAT SABINE. } No. 9822.

MERCHANTS' MUTUAL INSURANCE COMPANY *vs.* STEAMBOATS SABINE AND RICHMOND. } No. 9823.

Testimony on behalf of steamboat Sabine, taken before K. Loew, United States commissioner, this 3d May, 1872.

Present, Billings & Hughes and Bentinck Egan.

N. C. SELBY, being first duly sworn, says:

203 Was master on the Sabine on the night of the collision with the steamer Richmond.

(All legal objections reserved by proctors for the steamer Richmond.)

A couple of hours after the collision, Capt. Green, myself, Capt. Fuller and Mr. Jas. Levi, barkeeper of the Sabine, went over on the Richmond. In speaking of the collision, Capt. Green remarked that the Sabine could be easily raised; that he thought the damage was very slight. I told him that I didn't think that it was so; that I thought she was cut half in two, as I saw the capstan lying down on deck. He said it couldn't be possible, for the shock was too light; he said that he thought the Richmond had run into the bank first; he said, "Do you know what I thought when I came out of my room first and saw the river full of cotton?" (what proved to be cotton afterwards). Says he, "I thought we had run into a rock heap;" that he had no idea it was a steamboat.

This Green was the master of the steamer Richmond; I understood him to be the master; I know he acted as such; I heard him testify the
204 other night and heard this question put to him; he said he couldn't remember whether he ever had such a conversation. This conversation took place about two hours after the collision, on board the steamer Richmond, and it was daylight; I was standing on the hurricane deck of the Sabine when Capt. Green came out of his room, putting on his coat as he was coming out; this was after the collision, when the Richmond came back to us; Capt. Green was not on the roof before; if he had been on there *of* before I would have seen him, because I was standing right close to the Richmond, and there was nobody on the roof in sight; I was standing on the Sabine, on the hurricane roof, right forward, close to the bell; the Richmond was in the Sabine; her head was in the Sabine then; when she backed out I could see the hole in the Sabine.

The Richmond had penetrated seventeen feet into the Sabine; I have measured it; penetrated beyond the main kelson; the last piece of wood that was touched by the Richmond is the piece of timber on which
205 the nigger engine rested; the nigger engine which rested on this piece of timber was a little to the larboard, past midships; the opening of the wound where the Sabine was first struck was fifteen feet wide and about a foot at the extreme point where it stopped; I thought the general shape of the break was a perfect model of the bow of the Richmond. The Richmond went through a knuckle, four-inch plank, binding streaks about five inches, the nozing around the guards about the same and through a considerable part of iron bend plates, capstan, and knocked the capstan wood-work off the spindle, and the cogwheel (iron) next the nigger engine; the decking was 2 inches thick; some of the beams, about four by five inches, were broken; the Richmond came through that thickness seventeen feet altogether; a side blow could not have accomplished that; it could not have been done; has never been done. The Richmond's bow was a little forward of the kelson some few inches and the kelson did not go to the bow.

The extreme interior point of the wound or cut was ten feet from the stem of the Sabine, aft; it was about twenty-five feet from the
206 stem of the Sabine where it first commenced to penetrate; that is, twenty-five feet following the shape of the boat, not in a straight line; the cotton was piled about two feet aft of the capstan; the stages were kept on top of the cotton, and they fell with the cotton.

Photograph marked P P is a correct photograph of the Sabine after she was brought to New Orleans; the red line shows the place where the Sabine was first struck and where the cotton was piled; the cotton made the Richmond glanced a little forward; the planks were broken down about three feet, not to be water's edge, until the Richmond glanced further forward, then it went deeper, when she cleared the cotton. There was no other break on the Sabine than the one I have indicated; if there had been one I would have seen it; am satisfied there was no break after it.

The Sabine was raised by the wreckers by pumps and chains; before they raised her up they built a bulkhead right aft of the break; I think the bulkhead was built right at the red line on photograph P P.
207 taking the shape of the bow around the guards and nozing, I suppose there are thirty feet to the red line from the jackstaff. Photograph P P was not taken by my orders, I had nothing to do with it;

(Photograph PP is now offered by proctors for steamer Sabine.)

Photograph marked No. 1 does not represent the wreck of the Sabine

after she was brought to New Orleans. Photograph No. 2 does not represent it either, as it shows that all the planks are broken clear to the stem and off the stem, and that was not the case. Photograph No. 3 is no better illustration of the wreck, as it does not show the gallows frame, the bits, and the spindle of the capstan, which was standing up at the time, and it does not represent them there.

(Photographs marked Nos. 1, 2, and 3, referred to above, are the photographs already offered in evidence by claimants of steamer Richmond.)

I have had three photographs of the Sabine taken the day after she was brought to New Orleans, and they are identified with the testi-
208 mony of the witnesses in behalf of the Sabine.

Q. Are those photographs correct representatives of the steamer Sabine after her arrival at this port, or not?

(Objected to by proctors for steamer Richmond.)

Ans. Yes, sir.

Q. How were they taken?

(Objected to.)

A. They were taken in three different ways; one represents the Sabine straight across the cut; the other was taken from forward, and the other one from the aft of the cut. The Sabine is thirty-six feet beam; two feet guards. I think she is thirty-six feet beam, from the red line on photograph PP to the cotton.

Cross examined:

When the Richmond came back to the Sabine she put a line out and commenced taking cotton on; it was about three o'clock in the morning that the Richmond came back in answer to our signal. I was standing on the roof then, making ready to pass the baggage of my pas-
209 sengers as soon as the Richmond would come. That took me probably half an hour or three-quarters of an hour; it took me ten to fifteen minutes to transfer my passengers and the baggage to the Richmond; then I went over on the Richmond; my passengers, my family, and a portion of my crew went over with me.

I did nothing particular on the Richmond but talking to the clerk and captain. I mean when I first went over. I spoke to the captain and clerk at different parts of the boat; sometimes they were together; sometimes they were separate; were were on the guards of the Richmond when Capt. Green remarked that he thought he had gone on a rock heap; the conversation took place on the starboard side forward, I believe. I say on the larboard side forward, near the hall door of the Richmond; Capt. Fuller, clerk of the Sabine, and Mr. Levi, the barkeeper, were present at the conversation. I think there was another one present, of the Sabine crew, but I don't remember who he is; don't remember of any more being present; don't remember how long we were standing talking out, probably fifteen to twenty minutes; may be longer, may be less.

210 The conversation was in reference to the signal of the Sabine. Capt. Green said that he thought that the Sabine could be easily raised; that he did not think she had been seriously damaged. I told him I was satisfied that she could not be raised; that she was cut half in two; that I saw the hole when the Richmond backed out; and that I was certain that she could not be raised. He said that he did not think that he had run into a boat at all when he first felt the jar, and thought that he had gone into the bank. He said, "Do you know what I thought when I first came out and looked out and saw the river apparently full of cotton?" (as it proved to be afterwards.) Said he, "I thought

we had run into a rock-heap when I saw the cotton in the river." That's about the substance of the conversation.

Q. Was there anything said besides this?

A. Probably there was.

Q. Give me the remainder of the conversation.

A. It was about saving the cotton and the furniture of the Sabine.

Q. Tell me what was said.

211 A. I don't remember the conversation outside of what I have already stated.

Q. Tell me what do you remember?

A. Don't remember anything more than what I have told you.

Q. Did Mr. Fuller or Mr. Levi take any part in that conversation?

A. Mr. Fuller took part in it; Mr. Levi I don't think took any part in it; the unknown person did not either; don't remember what Fuller said; that's about all of this conversation that I can remember. When we pile cotton on flat, it measures, I think, about eighteen inches to two feet; I never measured it; if edge up, I should judge it would measure three and a half feet. Some was piled on the flat and some on the edge, on the bow of the Sabine, according to the emergency. I didn't pile it; the mate had it done. The hurricane roof of the Sabine is about twenty feet above her main deck. The cotton extended about feet forward from the extreme forward part of the hurricane roof; may be fifteen or twenty feet. I never left the hurricane roof until after the Richmond came back and made fast to the Sabine, and put a plank on the roof, which was about half an hour.

212 I swear that prior to the time that I saw Captain Green coming out of his room putting on his coat he was not on the roof of the Richmond.

Prior to the time when I saw the captain coming out of his room and putting on his coat, I saw all over the forward part of the hurricane roof, and as far aft as the texas, and there was no man there; nor as far aft as the middle of the texas forward.

I was standing all the time on the hurricane roof of the Sabine, hollowing for the Richmond to come back to get our passengers; that we were sinking. What I have said as to no one being on the hurricane roof of the Richmond has reference only to the time of their being in contact, and subsequently; I was standing on the roof of the Sabine, near the bell, a little to the starboard.

I didn't change my position, i. e., I didn't leave the roof until after the Richmond came back.

The Richmond appeared to be backing from the Sabine on her
213 starboard wheel, and she swung around in the river with her head quartering down; I shouted three times for her to come back, and received no answer; I shouted at intervals. The Richmond appeared to be rounding out; that is, she was receding from the Sabine, and as she was receding, the stern of the Sabine was nearer to the Richmond than her bow. I thought that nobody on the Richmond heard me; I did not go to the stem of my boat, as I would have been farther off; I stayed still in my place; I measured the depth into which the Richmond had gone the next day after the Sabine was brought to the wharf, I think.

When I say that the depth of the cut was seventeen feet, I measured it from the outer guard across to the inner line where the cut stopped. I measured it across the deck of the boat. This cut was a little quartering across the deck; the aft edge of the cut was not over six inches from the forward edge of the cotton. The extreme inner end of the cut was

from two and a half to three feet from the forward edge of the cotton, in a line perpendicular to the cotton at that point; I didn't look at her guards, but I should judge that the main deck of the Richmond
214 was from five and a half to six feet higher above water than the main deck of the Sabine; that is, the two boats placed side by side, as they were loaded that night. The cotton was piled solid, and made a level mass across her deck; it was ten tiers high. The tier farthest forward and nearest to the cut was of the same height, I think; that is, ten tiers.

I saw the two boats as they were in contact; I saw the Richmond before she backed from the Sabine; at that time, the Richmond was nearly at right angles to the Sabine.

When I stated, in my direct testimony, that after the Richmond backed out of the Sabine, the cut or wound in the Sabine was a fair model of the Richmond's bow, I mean that it was a fair model of the bow part of the hull of the Richmond; saw the capstan lying on the deck when the Richmond was backing at that time, the barrel of the capstan was not knocked off the spindle; the capstan was just mashed over on the deck. The spindle was not broken; I did not examine it closely, but I don't think it was; don't remember whether it was bent or not. I think
215 it was not. This cut was on the starboard of the Sabine. The deck of the Sabine was not broken or injured to the larboard of the capstan. This spindle of the capstan, which is wrought iron bar, goes down into the hold and sets into a shoe. The jackstaff is from ten to twelve feet from the extreme inner cut in a straight line from her stem aft, and the cotton was between two and a half to three feet aft of them.

My theory is that the Richmond must have been going at the rate of ten or twelve miles an hour when she came in contact with the Sabine.

When I first went out, saw the two boats in contact; I thought the Sabine was a little nearer the left hand descending, but pretty near the middle of the river. The Sabine was running mostly parallel with the bank of the river. I should judge the river is from three-quarters of a mile to a mile at Twelve Mile Point at the stage of the river at that time; I judged where the Richmond struck the Sabine from the appearance she presented on the examination that I made of her when she was brought to this city.

216 I will swear that the photographs marked 1, 2 and 3, offered by the claimants of the Richmond, do not represent the Sabine correctly. These photographs, if of the Sabine, must represent the appearance that the Sabine presented when taken, but I do not understand from what standpoint they could be taken to make it show that it was cut so much of her head off when it was not the case.

The three photographs of which I have testified as ordered to be taken by me were offered in connection with the testimony of Capt. Andrews, pilots Harrison and Ensminger, and Mr. C. Levi and others.

The red line on photograph P P, which I have stated was the point where the Richmond first struck the Sabine, is a little forward of the cotton—two or three inches; about that.

N. C. SELBY.

Sworn to and subscribed before me May 27th, 1872.

K. LOEW, *U. S. C.*

R. F. FULLER, being first duly sworn, says:

Was clerk on board of the Sabine; was present at a conversation
217 which took place between Capt. Green, of the Richmond and Capt.

Selby, of the Sabine, myself and Mr. Levi. The conversation commenced on the larboard side of the Richmond, between eight and nine o'clock in the morning of the 11th February last. The Richmond was laying alongside of the Sabine; the Sabine was sunk.

Capt. Green saw that there would be a big lawsuit about this thing; that he didn't see it when he first came out of his room after the accident occurred, and saw cotton on the water; he thought that the Richmond had run into a rock heap, and the drift of the conversation was that he wanted Capt. Selby to abandon the boat to him. Capt. Selby declined to do so. About the time we were separated, Capt. Green remarked: "I understand you to say that you abandon the boat to me." Capt. Selby said no, and I said the same. There the conversation ended. I was present when this question was asked to Capt. Green in reference to that conversation.

Cross-examined:

No one present at that conversation but those I have already
218 mentioned; some one else may have heard it, but I didn't see any. This conversation lasted about three minutes; the conversation was going on when I came up; I think Capt. Green had the floor when I came up; he said there would be a big lawsuit out of this case; this he said to Capt. Selby or Levi or both; I didn't hear any answer; the next thing that was said, I heard Capt. Green say that he didn't see it; that he thought he had gone into a rock heap; heard no answer to that; "Well," says he, "I suppose you have abandoned this boat to me, Capt. Selby?" "No, sir," said Capt. Selby, "I didn't." That ended the conversation. I left then, and don't know what took place afterwards; nobody go off with me; that's all I know about this conversation.

Redirect:

Levi is not in this city now; he lives in New Albany, Indiana.

R. F. FULLER.

Sworn to and subscribed before me May 27th, 1872.

K. LOEW, *U. S. C.*

All legal exceptions to foregoing testimony waived by proctors for steamer Richmond.

K. LOEW, *U. S. C.*

219 United States district court, district and State of Louisiana. In admiralty.

SARAH C. SHIRLEY ET ALS., OWNERS OF STEAMER Sabine,
versus
STEAMBOAT RICHMOND.

District court of the United States of America, for the district of Louisiana, holding sessions in the city of New Orleans.

To any U. S. commissioner residing in New Albany, Indiana:

Know ye that reposing special trust and confidence in your integrity and ability, we hereby authorize and require you that you call and cause to come before you James Levi, Jno. Morin, Durbin Turnell, Theodore Fugate, and Marion C. Levi, witnesses for libellants, now residing in

New Albany, Indiana, and them duly examine on the annexed interrogatories and cross-interrogatories on oath touching and concerning certain matters and things in a case now pending in the said court wherein Sarah C. Shirley et als. are libellants, and the steamer Richmond and the owners thereof are defendants; and the same examinations, so taken and
220 reduced to writing, you certify under your hand and seal, and send enclosed to this court without delay, to be read in evidence on the trial of said cause, and send also this writ.

Witness the honorable Edward H. Durell, judge of the district court of the United States of America for the district of Louisiana, at the city of New Orleans, this 19th day of December, A. D. 1872.

J. A. CHARBONNET,
Deputy Clerk.

Interrogatories to be propounded to James Levi, John Morin, Durbin Turnell, Theodore Fugate, Marion C. Levi, witnesses for libellants in the above cause, residing in New Albany, Indiana, whose testimony is to be taken by virtue of the annexed commission, to be read on the trial of the above cause.

First interrogatory. What is your age, occupation or profession, and how long have you been so engaged?

Second interrogatory. Were you employed on the steamer Sabine in February, 1872, at the time she was sunk by the steamer Richmond; if yea, in what capacity were you employed on her?

221 Third interrogatory. Was your testimony taken in this cause in reference to the collision between the steamers Richmond and Sabine, by which the latter boat was sunk; if yea, when and where was your testimony taken?

Fourth interrogatory. Do you know David O. Harkins; if yea, in what capacity was he employed on the steamer Sabine when she was sunk by the steamboat Richmond, running into her near Twelve Mile Point, above New Orleans?

Fifth interrogatory. Where was the said David O. Harkins at the time of the collision? If you say he was in his room, please state where his room was on the boat, what was he doing there, and please state particularly how you know those facts. Was he asleep or awake? If you say he was asleep, please state how and by whom he was awaken', and was this before or after the collision; if after the collision, please state how long after. Was the boat then sunk or not?

Sixth interrogatory. When did you first see David O. Harkins on the roof of the Sabine, how long was it after the collision, and where was the steamer Richmond at that time. Did you see him come upon the roof?

222 Seventh interrogatory. Was or not David O. Harkins with you and the other witness examined on behalf of the libellants in this cause every day when their testimony was being taken in New Orleans, in the office of R. H. Marr and at the United States district court clerk's office, for nearly a month; if yea, did you have any conversation with him in reference to the collision and the testimony being taken? If yea, please state whether he made any statement to you in reference to where he was at the time of the collision and what he knew about it. Give his statement' to you on this subject, and when and where they were made.

Eighth interrogatory. David O. Harkins has stated that Durbin Turnell, the mate of the steamer Sabine, was in the pantry getting coffee

at the time of the collision between the steamer Richmond and the steamer Sabine, and that he ran out of the pantry after the collision and went to the hurricane roof of the boat, and that he (Harkins) followed him up there immediately; and that there was no person on the roof at the time of the collision, and that Capt. Selby came up there after-
223 wards with his child in his arms. Please state whether that statement is true or false; if false, please state fully your reason for making this assertion. Please state anything further you may know in reference to where the said D. O. Harkins was at the time of the collision between the steamers Richmond and Sabine, on the morning of the 11th of February, as fully and particularly as if specially interrogated thereto, and how you know the facts.

BENTINCK, EGAN, AND R. H. MARR,
Proctors for Libellants.

Cross-interrogatories to be propounded to James Levi, John Morin, Durbin Turnell, Theodore Fugate, Morrison C. Levi, at the same time reserving all legal objections to the interrogatories propounded by the libellants and the answers thereto.

Cross-interrogatory first. Have you talked with N. C. Selby or any one else, in relation to what you will swear to in any *to any* of the interrogatories propounded to you under this commission? If you have, please state what passed and what you were told, and in what respect your memory was prompted.

Cross-interrogatory second. Was N. C. Selby or his attorney
224 present, or were any of the former owners of the Sabine present when you gave your answer in this matter?

Cross-interrogatory third. Is all you have testified to of your own personal knowlege? If not, specify such portion as is not.

GIVEN CAMPBELL,
Attorney for Claimants Steamer Richmond.

UNITED STATES OF AMERICA,
District of Indiana, State of Indiana, County of Floyd, ss:

Be it remembered, that on this 28th day of December, in the year of our Lord one thousand eight hundred and seventy-two, I, Noble C. Butler, a commissioner duly appointed by the circuit court of the United States for the district of Indiana, in the seventh circuit, under and by virtue of the act of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled "An act in addition to an act entitled An act for the more convenient taking of affidavits and bail in civil causes de-
225 pending in the courts of the United States," passed March 1st, 1817, and the act entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, did call and cause to personally appear and to be before me, at my office, at number 275 Main street, in the city of New Albany, in said State of Indiana, and district of Indiana, Theodore Fugate and James Levi, to testify and the truth to say, on the part and behalf of the libellants, and as well on the part of the respondent as on the part of the libellants, in a certain suit or matter of controversy now depending and undetermined in the district court of the United States, for the district of Louisiana, at New Orleans, in the district aforesaid, wherein Sarah C. Shirley et al. are libellants, and the steamer Richmond and the owners thereof are respondents.

And the said THEODORE FUGATE being about the age of twenty-three years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the matter of controversy aforesaid, I did carefully examined the said Theodore Fugate, and he did thereupon depose, testify and say as follows, viz:

226 Interrogatory first. What is your age, occupation or profession and how long have you been so engaged?

Answer. My age is twenty-three years; I am a carpenter, and have been a carpenter for eight years last past.

Interrogatory second. Were you employed on the steamer Sabine, in February, 1872, at the time she was sunk by the steamer Richmond? If yea, in what capacity were you employed on her?

Answer. I was employed on the steamer Sabine as a carpenter at the time named.

Interrogatory third. Was your testimony taken in this cause in reference to the collision between the steamers Richmond and Sabine, by which the latter boat was sunk; if yea, when and where was your testimoney taken?

Answer. My testimony has never been taken in this cause.

Interrogatory fourth. Do you know David O. Harkins; if yea, in what capacity was he employed on the steamer Sabine when she was sunk by the steamboat Richmond running into her, near Twelve Mile Point, above New Orleans?

Answer. I know David O. Harkins; he was second clerk on the Sabine at the time named.

227 Interrogatory fifth. Where was the said David O. Harkins at the moment of the collision? If you say he was in his room, please state where his room was on the boat, what he was doing there; and please state particularly how you know those facts. Was he asleep or awake? If you say he was asleep, please state how and by whom he was awakened; and was this before or after the collision? If after the collision, please state how long after. Was the boat then sunk or not?

Answer. He was asleep in his bed in the office, which was the forward room on the larboard side of the Sabine; the curtains were drawn together in front of his bed. I was on the roof of the Sabine at the time of the collision, and as soon as it occurred I ran down into the cabin to wake him up; I went to the office first, pulled the curtain aside in front of Harkins' bed, and shook him and woke him up. It was about five minutes after the collision when I got Harkins awake; the boat was then sunk; the water then came up within about five feet of the cabin floor.

Interrogatory sixth. When did you first see David O. Harkins on the roof of the Sabine? How long was it after the collision, and
228 where was the *the* Richmond at that time? Did you see him come on the roof?

Answer. I first saw him there ten or twelve minutes after the collision. I saw him come on the roof then. The steamer Richmond was then about sixty yards from us and coming toward us. She had backed away from us after the collision, and when we hailed her came back again to us.

Interrogatory seventh. Was or was not David O. Harkins with you and the other witnesses examined on behalf of the libellants in this cause, every day, when their testimony was being taken in New Orleans, in the office of R. H. Marr, and at the United States district court clerk's office, for nearly a month? If yea, did you have any conversation with him in reference to the collision and testimony being taken? If yea,

please state whether he made any statement to you in reference to where he was at the time of the collision, and what he knew about it. Give his statements to you on this subject, and when and where they were made.

Answer. I was not in New Orleans at the time the depositions
229 were being taken at the office of R. H. Marr or at the United States district court clerk's office. I was in New Orleans about a month after the collision occurred, and had a conversation with Harkins upon the subject of the collision in front of the St. Charles Hotel, on the corner of St. Charles and Common streets, in that city, in which he said that he was asleep at the time of the collision; that the shock of it did not wake him up, and that if I had not waked him up he might have drowned.

Interrogatory eighth. David O. Harkins has stated that Durbin Furnell, the mate of the steamer Sabine, was in the pantry getting coffee at the time of the collision between the steamer Richmond and the steamer Sabine, and that he ran out of the pantry after the collision and went to the hurricane roof of the boat, and that he (Harkins) followed him up there immediately; and that there was no person on the roof at the time of the collision, and that Capt. Selby came up there afterwards with his child in his arms. Please state whether that statement is true or false. If false, please state fully your reason for
230 making this assertion. Please state anything further you may know in reference to where the said D. O. Harkins was at the time of the collision between the steamers Richmond and Sabine, on the morning of the 11th of February, as fully and particularly as if specially interrogated thereto, and how you know those facts.

Answer. The statement of David O. Harkins is false. My reasons for this assertion are, that I was on the roof at the time of the collision. John Douglas was there also. Harkins was about the last one out of the cabin, and everybody else about the boat was on the roof before he came on. I don't remember any other particulars as to the whereabouts of Harkins at the time of the collision than have been stated to me.

Cross-interrogatory first. Have you talked with N. C. Selby or any one else in relation to what you will swear to in answer to any of the interrogatories propounded to you under this commission? If you have, please what passed and what you were told and in what respect your memory was prompted.

Answer. I have not talked with N. C. Selby or any one else in
231 relation to what I would swear to in answer to any of the interrogatories propounded under this commission.

Cross-interrogatory second. Was N. C. Selby or his attorney present, or were any of the former owners of the Sabine present when you gave your answers in this matter?

Answer. None of them were present.

Cross-interrogatory third. Is all you have testified to of your own personal knowledge? If not, specify such portion as is not.

Answer. It is all of my own personal knowledge.

THEODORE FUGIT.

And the said JAMES LEVI, being about the age of forty eight years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter of controversy aforesaid, I did carefully examine the said James Levi, and he did thereupon depose, testify, and say as follows, viz:

Interrogatory first. What is your age, occupation, or profession; And how long have you been so engaged?

Answer. My age is forty-eight years; occupation, a steamboat
232 painter, and have been a steamboat painter twenty-nine years.

Interrogatory second. Were you employed on the steamer Sabine in February, 1872, at the time she was sunk by the steamer Richmond? If yea, in what capacity were you employed on her?

Answer. I was employed on the steamer at the time named. I owned the bar on her.

Interrogatory third. Was your testimony taken in this cause in reference to the collision between the steamers Richmond and Sabine, by which the latter boat was sunk? If yea, when and where was your testimony taken?

Answer. My testimony was taken in the cause in reference to the collision between the steamers Richmond and Sabine, by which the latter boat was sunk, in New Orleans, Louisiana, at R. H. Marr's office in April 1872.

Interrogatory fourth. Do you know David O. Harkins? If yea, in what capacity was he employed on the steamer Sabine, when she was sunk by the steamboat Richmond running into her near Twelve Mile Point, above New Orleans?

233 Answer. I know him; he was second clerk on the Sabine at that time.

Interrogatory fifth. Where was the said David O. Harkins at the moment of the collision? If you say he was in his room, please where his room was on the boat; what he was doing there, and please state particularly how you know those facts. Was he asleep or awake? If you say he was asleep, please state how and by whom he was awakened; and was this before or after the collision? If after the collision, please state how long after. Was the boat then sunk or not?

Answer. I know nothing of my own personal knowledge as to the whereabouts of David O. Harkins at the moment of the collision.

Interrogatory sixth. When did you first see David O. Harkins on the roof of the Sabine? How long was it after the collision, and where was the steamer Richmond at that time? Did you see him come upon the roof?

Answer. I saw him ten or fifteen after the collision, on the
234 roof. The steamer Richmond was just then coming alongside of us. I saw him come on the roof then.

Interrogatory seventh. Was or not David O. Harkins with you and the other witness examined on behalf of the libellants in this cause, every day, when their testimony was being taken in New Orleans, in the office of R. H. Marr, and at the United States district court clerk's office for nearly a month? If yea, did you have any conversation with him in reference to the collision, and testimony being taken? If yea, please state whether he made any statement to you in reference to where he was at the time of the collision, and what he knew about it. Give his statements to you on this subject.

Answer. Yes, sir; he was, and I had several conversations with him during the time in reference to the collision, and where he was at the time it occurred. I had one conversation with him during this time at the St. Charles Hotel, on the corner of St. Charles and Common streets, in New Orleans, Louisiana, in which he said that his evidence
235 would not do Capt. Selby any good, and it was not worth while to take it; that he knew nothing about the collision. He did not,

in this conversation or in any other which I had with him, say where he was at the time of the collision.

Interrogatory eighth. David O. Harkins has stated that Durbin Turnell, the mate of the steamer Sabine, was in the pantry getting coffee at the time of the collision between the steamer Richmond and the steamer Sabine, and that he ran out of the pantry after the collision and went on the hurricane roof of the boat, and that he (Harkins) followed him up there immediately; and that there was no person on the roof at the time of the collision, and that Capt. Selby came up there afterwards with his child in his arms. Please state whether that statement is true or false. If false, please state fully your reasons for making this assertion. Please state anything further you may know in reference to where D. O. Harkins was at the time of the collision between the steamers Rich-
236 mond and Sabine on the morning of the 11th of February, as fully and particularly as if specially interrogated thereto, and how you know those facts.

Answer. The statement of Harkins is false in some particulars. He did not follow Turnell upon the roof immediately, for I was on the roof and saw Turnell there fully five minutes before Harkins came on the roof; and Capt. Selby did not come on the roof with his child in his arms, for I saw Capt. Selby go on the roof and heard him call to his wife, as he went, to come on the roof and bring their child with her. The child is a boy about eight years old. I have no personal knowledge as to the truth or falsity of the rest of his statement. I know nothing further as to the whereabouts of Harkins at the time of the collision.

Cross-interrogatory first. Have you talked with N. C. Selby or any one else in relation to what you will swear to in answer to any of the interrogatories propounded to you under this commission? If you have, please state what passed and what you were told and in what respect your memory was prompted.

237 Answer. I have not talked with N. C. Selby or any one else in relation to what I would swear to in answer to any of the interrogatories propounded me under this commission.

Cross interrogatory second. Was N. C. Selby or his attorney present, or were any of the former owners of the Sabine present when you gave your answers in this matter?

Answer. None of them were present.

Cross-interrogatory third. Is all you have testified to of your own personal knowledge? If not, specify such portions as is not.

Answer. All I have testified to is of my own personal knowledge.

JAMES LEVI.

UNITED STATES OF AMERICA,
District of Indiana, set:

I, Noble C. Butler, a commissioner duly appointed by the circuit court of the United States for the district of Louisiana, in the seventh circuit, under and by virtue of the act of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled "An act in addition to an act en-
238 titled 'An act for the more convenient taking of bail in civil causes depending in the courts of the United States,'" passed March 1st, 1817, and the act entitled "An to establish the judicial courts of the United States," passed September 24th, 1789, do hereby certify that the reasons for taking the foregoing depositions is, and the fact is, that the testimony of said witnesses is material to the libellants, and necessary to the said libellants in the cause in the caption of said depositions

named, and that the said witnesses live, and did live at the time of taking said depositions, in the city of New Albany, county of Floyd, and State of Indiana, the same being at a greater distance than one hundred miles from the city of New Orleans, in the State of Louisiana, where the court at which it is expected the said cause will be tried was appointed by law to be held, to wit, more than one thousand miles therefrom.

I further certify that on the 28th day of December, A. D. 1872, I was attended at my office, at number 275 Main street, in the city of
239 New Albany, county of Floyd, State of Indiana, and district of Indiana, by the witnesses Theodore Fugate and James Levi, who were of sound mind and lawful age, and the said witnesses were by me carefully examined and cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, and their foregoing depositions were by me reduced to writing in the presence of said witnesses, and from their statements, and after carefully reading the same to the said witnesses, they subscribed to the same in my presence. I have retained the said depositions in my possession for the purpose of sealing up and directing the same with this certificate of the reasons aforesaid for taking said depositions with my own hands, to the court for which the same were taken.

And I do further certify that I am not of counsel nor attorney for either of the parties in said deposition and caption named, or in any way interested in the event of said cause named in said caption, and that neither of the parties thereto were present at the taking of the said depositions, either in person or by attorney.

240 In testimony whereof I have hereunto set my hand this 28th day of December, in the year of our Lord one thousand eight hundred and seventy-two, and of the Independence of the United States the ninety-sixth.

NOBLE C. BUTLER,
United States Commissioner.

Fees for taking depositions, $8.30. Paid by libellants.

N. C. BUTLER,
U. S. Com'r.

Testimony for libellants, taken before K. Loew, a U. S. C., December 14, 1872.

Present, B. Egan and G. Campbell, esqrs.

Captain SELBY, being sworn for libellants, says:

I am one of them; know D. O. Harkins; he was second clerk on the Sabine; heard him give his testimony day before yesterday.

Q. Was it true or false?

A. I say it is false. It is false where he says he was up at the time of the collision. He was not up but in bed when the boat was going down the river, about half an hour before the collision. Since the collision I had often conversations with Harkins relating to the collision.

241 (Claimant objects to the testimony and questions propounded to the witness, on the ground that he was present at the examination of Harkins and could have examined him.)

Harkins told me he was not up at the time of collision, and that he knew nothing of it till after she sunk. Then Levi came and woke him up to get his money, which he had left in the office. Levi was the barkeeper of the boat. He also stated to me he could give no evidence for me, as he knew nothing of the collision till after the boat had sunk.

Harkins was around with me for about four weeks after the collision. He was at Mr. Marr's office and Mr. Egan's office and at the commissioner's office whilst the testimony was being taken. He saw me, with the child in my arms, on the roof, after the Sabine sunk and after I had got my family up on the roof. When I saw the boat was sinking, I went for my family and met them in the hall. Before that I was on the roof. Saw no negroes on the roof when I first went up. There
242 was one negro passenger on the boat; a man. Don't know where he was at the time of the collision. After the boat settled the hands came on the hurricane roof.

Q. Do you know what the character of D. O. Harkins is in this community for truth and veracity?

A. I know nothing about his character. He has made but two or three trips on the Sabine.

Cross-examined:

Q. Where were you when the collision took place?

A. Coming out of the Sabine, going up to the hurricane roof.

Q. Where were you when you heard the last whistle of the Sabine before the collision?

A. Was in my room, putting on my clothes. Didn't see Harkins when I came out of the cabin.

Q. Can you swear positively, of your own knowledge, that D. O. Harkins, second clerk of the Sabine, was in bed on board the Sabine when the collision took place between the Sabine and the Richmond, in February, 1872, below Twelve Mile Point, on the Mississippi River?

243 A. I do swear he was in bed, and swear it of my own knowledge.

Q. Did you see him in bed at the moment of the collision?

A. I did not; but I saw him in bed not ten minutes before.

Q. Did you him in bed at any time after the collision?

A. No, sir.

Re examined:

Harkins had repeatedly admitted to me that he was in bed at the time of the collision, and knew nothing about it till Levi came and woke him up, running after his money.

N. C. SELBY.

Sworn to and subscribed before me this 14th December, 1872.

K. LOEW, *U. S. C.*

M. ANSLEY, sworn for libellants, says:

I am acquainted with David O. Harkins since about four years; was with him one trip on the Mayflower, but have known him on other boats.

Q. Do you know his character for truth and veracity in this community?

(Question objected to because he is not asked what his general
244 character in this community is.)

A. It is not good.

Q. Would you believe him under oath?

(Objected to as illegal.)

A. I would not.

Cross-examined:

My full name is Martin Markham Ansley; am keeping a boarding-

house on Carondelet street. Mr. Harkins owes me no money. Upon reflection, I say I don't know whether he owes me anything or not; but don't think he does.

Q. Can you swear that Harkins' general reputation in this community, among those that know him best and have known him longest, is bad for truth and veracity?

A. I can only swear for myself and from what I heard from others.

Q. Do you know how long those persons have known him, and who they are?

A. Heard it from Capt. Cellos, who had him on the Mayflower as second clerk; also from Capt. Gus. Hodge; heard it from Capt. Johnson, clerk on the river; heard several other steamboat men speak of him in this manner; don't know their names. Harkins told me he
245 was discharged from the Lizzie Hopkins for drunkenness and debauchery. This happened two years ago in presence of several parties whose names I don't remember. These are all I remember at present.

Q. Did you ever hear Capt. Cellos and Hodge say they would not believe Harkins under oath?

A. No, sir.

Q. How do you know that they would not believe him on oath?

A. Don't know that they would not believe him on oath; but they told me he was an awful liar and drunk a good part of his time. Cellos told me this yesterday, and Hodge also; Johnson also, told me so yesterday.

Q. Then you went around on yesterday in the interest of Capt. Selby and the owners of the Sabine to gather up testimony as to the character of D. O. Harkins, and you have not succeeded in recollecting but the names of three persons?

A. I expect I could have found forty if I had wanted them. I don't recollect that Capt. Selby asked me to do this. I was with Capt. Selby yesterday when we met Cellos and Gus. Hodge, when they said so.

M. AINSLIE.

246 Sworn to and subscribed before me this 14th December, 1872.

K. LOEW, *U. S. C.*

Petition for appeal for Sarah C. Shirley & America B. Selby, & order.—Filed Dec'r 20th, 1873.

SARAH C. SHIRLEY ET ALS.
vs.
ST'R RICHMOND. } No. 9822.

To the honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The petition of Sarah C. Shirley and America Bennet Selby, wife of Nathaniel Collins Selby, herein aided, authorized, and assisted by her said husband, respectfully represents that petitioners and Richard F. Fuller are the libellants in the above-entitled cause, and that a certain final decree has been rendered in said cause upon the original libel, dismissing the said libel, and a certain other final decree has been rendered upon the cross-libel of the owners of the st'r Richmond, Nathaniel C. Green, John N. Boffinger, Theodore Laville, Samuel L. Stillwell, & Enoch Stillwell, Walker Carter, & J. H. Conn & D. R. Powell,
247 awarding to them the sum of $9,750 damages and costs of suit

against petitioners and their said co-libellant, Richard F. Fuller; that the decree dismissing their libel was rendered on the 14th of April, 1873, and the decree confirming the commissioner's report awarding damages against petitioners and their said co-libellant was rendered on the 5th of June, 1873.

Petitioners further represent that on the 10th day of June, 1873, their said co-libellant, Richard F. Fuller, moved for and obtained an order of this honorable court allowing him an appeal from said final decrees returnable in the honorable circuit court for the fifth circuit and district of Louisiana, on the next term thereafter, on giving bond and security conditioned according to law in the sum of five hundred dollars.

Petitioners further represent that the appeal taken by their co-libellant as aforesaid has been regularly filed in the honorable circuit court of the United States for the fifth circuit and district of Louisiana, where the same is now pending and undetermined.

Petitioners further represent that *that* they are informed and be-
248 lieve that there is error to their prejudice in said final decrees, and that they are desirous of taking an appeal therefrom and joining their co-libellant in the appeal heretofore taken by him and now pending and undetermined in the hon'ble circuit court of the United States for the fifth circuit and district of Louisiana.

Wherefore petitioners pray that in consideration of the premises that they be allowed an appeal from the said final decree dismissing the libel of petitioners and the said R. F. Fuller in the above cause, and also from the decree upon the cross-libel awarding damages and costs against petitioners and their said co-libellant in favor of the said Nathaniel C. Green, John N. Boffinger, Theodore Laville, Samuel F. Stillwell, Enoch Stillwell, Walker Carter, J. H. Conn, and D. R. Powell, owners of the st'r Richmond, on such terms as the court may see fit to impose, and that considering the bond given by the said Fuller and the transcript of the record now on file in the honorable circuit court of the United States for the fifth circuit and district of Louisiana, that petitioners be allowed to become parties appellants in said cause, and petitioners
249 pray for general relief and that the said owners of the st'r Richmond be cited to appear and answer this appeal.

(Signed) BENTINCK EGAN,
Proctor.

I authorize my wife, America B., to take and prosecute the appeal herein prayed for.

(Signed) N. C. SELBY.

Considering the bond given by R. F. Fuller, one of the libellants and appellants in this case, ordered, that the petitioners have leave to join in the appeal taken by said Fuller on 10 June, 1873, and become parties thereto.

Dec'r 17, 1873.

(Signed) E. H. DURELL, *Judge.*

True copy:
Dec'r 17, 1873.
[SEAL OF U. S. D'T COURT, LA.] (Signed) K. LOEW,
D'y Clerk.

Agreement.—Filed March 23, 1875.

U. S. circuit court, in admiralty on appeal.

SHIRLEY
vs.
RICHMOND & SABINE. } No. 9822.

MERCHANTS' MUTUAL INS. CO.
vs.
SAME. } No. 9823.

250 It is agreed between the undersigned counsel that, on the trial of the above causes, the matter of interest & title & damages and subrogation will be left open for future evidence and reference, the matter of fault in the collision alone now being in question.

New Orleans June 14, 1875.

(Signed) BILLINGS & HUGHES,
For Richmond.

(Signed) ALBERT VOORHIES, *Att'y.*

(Signed) M. M. COHEN,
Proctor for M. M. I. Co. & Intervenors.

Hearing and continuance.

November term, A. D. 1874.

NEW ORLEANS, *Tuesday, March* 23, 1875.

Court met pursuant to adjournment.

Present, Hon. Wm. B. Woods, circuit judge.

S. C. SHIRLEY ET ALS.
vs.
ST'R RICHMOND. } 7057.

MERCHANTS' MUTUAL INS. CO. & Intervenors.
vs.
STRS RICHMOND & SABINE, &C. } 7057.

This cause came on to be heard on the transcript of the record from the district court. Present, Kennard, Howe & Prentiss for st'r Richmond; M. M. Cohen for M'ch'ts' Mut. Ins. Co. & intervenors; R. H. Marr & B. Egan for st'r Sabine; and after hearing the pleadings,
251 evidence & argument the cause is continued till to-morrow at 11 a. m.

Submission.—Extract from minutes of 24 *March*, 1875.

S. C. SHIRLEY & AL.
vs.
ST'R RICHMOND. } 7057.

MERCH'TS' MUT'L INS. CO. & AL.
vs.
ST'R RICHMOND & SABINE. } 7057.

This cause was resumed, and after hearing further argument the court

took time to advise, and allowed the proctors for the Richmond three days to furnish brief.

Decree and reference to Com'r J. W. Gurley.

November term, A. D. 1874.

NEW ORLEANS, *Monday, 19th April*, 1875.

Court met pursuant to adjournment.
Present, Hon. W. B. Woods, circuit judge.

S. C. SHIRLEY & AL. *vs.* ST'R RICHMOND. } No. 7057.

MERCHANTS' MUT. INS. CO. *vs.* ST'R SABINE & RICHMOND. } 7057.

This cause came on to be heard upon the transcript of the record from the district court and was argued by counsel; on consideration whereof, and for reasons assigned in writing, it is ordered, adjudged, and decreed that the libel of the steamer Sabine be dismissed
252 with costs, and that on the cross-libel the steamer Richmond recover from the steamer Sabine all damages said steamer Richmond has suffered by the collision.

It is further adjudged and decreed that the libel of the Merchants' Mutual Insurance Company against the steamers Sabine and Richmond be dismissed as to the steamer Richmond, and that said Merchants' Mutual Insurance Company and intervenors have judgment against N. C. Selby, master of the steamer Sabine, for all damages sustained by the said insurance company by reason of said collision, with privilege on any balance of the proceeds in the registry arising from the sale of said steamer Sabine.

It is further ordered that it be referred to J. W. Gurley, U. S. commissioner, to ascertain and report the damage sustained herein by the steamer Richmond and Merchants' Mutual Insurance Company and intervenors.

Rule for new trial.—Entered and filed April 21, 1875.

U. S. circuit court.

S. C. SHIRLEY ET ALS. *vs.* ST'R RICHMOND. } No. 7057.

MERCH'TS' MUT. INS. CO. ET ALS. *vs.* ST'R SABINE & RICHMOND. } No. 7057.

253 On motion of R. H. Marr & B. Egan, proctors for libellants in the first and defendants in the second of the above-entitled causes, and also of M. M. Cohen and Albert Voorhes, proctors for libellants and intervenors in the second of the above-entitled causes, it is ordered by the court that claimants of the st'r Richmond do show

cause on Saturday, the 1st May, 1875, at 11 a. m., why a new trial and rehearing should not be granted in the above causes on the following grounds:

1. Because the decree is contrary to the law and the evidence on file.

2. Because the testimony of Thomas J. Harrison, pilot on watch on the steamer Sabine, D. W. Ensminger, pilot off watch, D. Turnell, master of the Sabine, on watch, M. C. Levy, third clerk of the Sabine, shows that the Sabine was coming down in the thread of the current when they saw the lights of a steamer, which proved to be the Richmond, deep in the bend, and the Sabine was held into the point to give her the bend, as they considered it dangerous to cross her lights, which they would have been bound to do if they attempted to take the bend; that believing
254 she wanted the bend, the Sabine was pulled more under the point, and when the Richmond ran into her was more than 100 yards inside of the usual track of ascending vessels.

3. Because , the pilot of the Richmond, says when he ran into the Sabine she was closer into shore than he had ever seen a boat before, consequently must have been out of the way of ascending boats.

4. Because if the Sabine was in fault it was a harmless fault in being closer into shore than the pilot of the Richmond had ever seen a boat before, from one to two hundred yards inside of the track of an ascending steamer, and he had no right to go in there and run her down because she was not in the middle of the river.

5. Because the testimony is conclusive that the Richmond made no proper or timely efforts to avoid the collision by stopping or backing.

And that said claimants of the Richmond or their proctors of record, Kennard, Howe & Prentiss, esqrs., have due notice.

Marshal's return.

Received Apr. 22, 1875, by the U. S. marshal, and on same day,
255 month, and year served a copy of within rule on Kennard, Howe & Prentiss, named herein, by handing the same to S. S. Prentiss.

New Orleans, April 22d, 1875.

(Signed) S. W. REED,
D'y U. S. Marshal.

Order new trial refused.

April term, A. D. 1875.

NEW ORLEANS, *Saturday, May* 15, 1875.

Court met pursuant to adjournment.

Present, Hon. Wm. B. Woods, circuit judge.

S. C. SHIRLEY & ALS. *vs.* ST'R RICHMOND. } 7057.

MERCH'TS' MUT. INS. CO. & ALS. *vs.* ST'RS SABINE & RICHMOND. } 7057.

The rule for a new trial was called. Present, B. Egan, M. M. Cohen, E. C. Billings. And after hearing argument, it is ordered that the rule be discharged and a new trial refused, with costs.

Motion and order for appeal.—Entered and filed May 15, 1875.

Circuit court of the United States for the fifth circuit and district of Louisiana.

SARAH C. SHIRLEY ET ALS. *vs.* ST'R RICHMOND. } No. 7057.

256 On motion of Bentinck Egan and R. H. Marr, proctors for Richard F. Fuller, Sarah C. Shirley, & America B. Selby, wife of Nathaniel C. Selby, libellants in the above cause, and on suggesting to the court that they are informed and believe that there is error to their prejudice in the final decree rendered by this honorable court in the above-entitled cause on the of April, 1875, and signed on the , dismissing their libel against the steamboat Richmond; that they are aggrieved by said final decree and are desirous of taking a suspensive appeal with supersedeas to the honorable Supreme Court of the United States: Therefore, it is ordered by the court that the libellants in the above cause be allowed a suspensive appeal with supersedeas from the final decree rendered in this cause dismissing their libel, returnable in the Supreme Court of the United States on the second Monday in October next, giving bond and security, according to law, in the sum of two hundred and fifty dollars.

Testimony taken before Com'r Shannon on reference in U. S. district court.

U. S. district court. In admiralty.

257 SARAH C. SHIRLEY & OTHERS, LIBELLANTS, *vs.* THE STEAMBOAT RICHMOND, HER ENGINES, &C. } No. 9822.

Testimony on behalf of the st'r Richmond.

Present, G. Campbell, proctor for cl'm't; N. C. Selby, for Sabine; Messrs. Voorhies & M. M. Cohen, for M. M. Ins. Co.

NATHANIEL S. GREEN, sworn for the steamboat Richmond, says:

I paid the bill shown to me, marked A, to the clerk of the U. S. district court at the time the Richmond was bonded in the case; the amount is $419.45.

(The bill is offered in evidence, and Mr. Cohen objects to the bill on the ground that it is not made out so as to distinguish the costs in 9822 from the costs in 9823, and objects to the bill for appraisers on the ground that the rule in the U. S. district court in admiralty allows $10.00 a day for each day, and it does not appear that the appraiser was engaged for twenty-five days.)

Being shown bills marked B & C he says:

Bill B, amount $67.50; bill C, amount $693.90; those two bills were paid by me in this case.

(Bills offered in evidence by Mr. Campbell admitted.)

258 I paid out $25 for photographic views of the wreck of the Sabine to be used as evidence in this case.

(Mr. Cohen objects to this evidence on the ground that these photo-

graphs do not form any portion of the costs of court any more than would the printing of briefs of counsel.)

Mr. Campbell offers bills D, E, F, G, H, and shown to witness says: I paid all these bills from D to H, inclusive. I also paid bill II.

(Bill II offered in evidence by Mr. Campbell.

Mr. Cohen objects to this bill on the ground that it forms no part of the costs of court.)

Witness proceeds: I paid bills K, L also.

(Mr. Campbell offers these bills in evidence.

Mr. Cohen does not object to bill K if it is to be divided equally between the steamboat Sabine and the Merchants' Mutual Insurance Company.

Mr. Cohen objects to bill L, that protests do not form any part of the legal costs in this case, such protest as stated in the bill.)

259 Capt. Green says: I paid bill M, amount $250.30. I paid besides this bill amount $283.50 for printing testimony in this case.

Q. Will you please state in detail according to the claim filed with the cross libel in this case, what damages the Richmond incurred by reason of the collision between the Sabine & Richmond?

A. First, crew's wages, 1,750.00.

Q. Under what circumstances were these wages lost? How were they lost?

A. By the crew working on the boat until the boat was seized; that is, from the time the trip commenced until the boat was seized by the marshal. I had to keep the boat, being in a sinking condition, and consequently the crew, as there was a valuable cargo on board at the time of the collision; had to keep the steam up also for the same cause. The item for fuel, $500, was less than the fuel actually cost which was used on the boat. I had to keep up steam on the boat eight days while the boat was in a sinking condition. I paid out $1,050 for docking and repairs caused by the collision. I paid out wharfage, $110, while

260 the boat was lying at the city of New Orleans after the collision and before the seizure.

Q. Could the Richmond have made the repairs, and got away from the city of New Orleans before the date of her seizure?

A. No, sir; I made every effort to get off before the seizure, and the tow dock was under her when she was seized.

Q. What was the value of the stores consumed and lost by reason of this collision?

A. It amounted fully to $600.

Q. How much did your boat lose in money paid out for agency, advertising and labor in securing that trip of freight?

A. $1,025.20.

Q. How much did you lose on your freight list altogether?

A. Something over $5,000.

Q. How much did you actually lose on that passenger list?

A. $600. I also paid out $40 for survey and protest caused by collision.

Q. How much did you use in the consumption of oil and rigging produced by this collision other than you have already testified to?

A. $100.00.

261 Q. What was the actual loss to the owners of the Richmond by reason of the boat's delay during the time between the collision and seizure?

A. $2,250, I put it at; about eight days.

Q. What would such a boat as the Richmond per day during that season on a charter, say, for eight days?

A. Not less than $500 per day at that time.

Q. Has any part of these damages ever been paid to you?

A. Not a dollar; they are yet due to me from the defendants in the cross-libel.

Cross-examination waived.

(Signed) N. S. GREEN.

Subscribed and sworn to before me this 10th day of May, 1873.

(Signed) R. H. SHANNON,
U. S. Commissioner.

Adjourned to May 14th, @ 2 p. m. No further notice to be given.

MAY 14*th*.

Present, M. M. Cohen, esq., representing the N. O. Mutual Ins. Association and Union Ins. Co.; C. Cavaroc & A. Chiapella, sureties on Sabine bond.

C. B. Singleton represents the Home Mutual Ins. Co., A. Moulton.

A. Voorhies, esq., appears with Mr. Cohen and associated with him.

262 Proctors for Richmond absent.

THURSDAY, *May* 15*th*.

Sent notices to proctors, M. M. Cohen, A. Voorhies & Singleton for one ½ p. m. of the 16th inst.

FRIDAY, *May* 16*th*.

Present, Mr. Campbell for st'r Richmond.

BENJAMIN R. PEGRAM, of the city of New Orleans, being duly sworn says:

I am a steamboatman; in February, 1872, I commanded the st. b't James Howard, running on the Ohio & Mississippi River.

Q. Can you state what the steamboat Richmond would have been worth for a charter of eight days, commencing say the 12th of February and ending February 20th, 1872, either eight or twenty days, giving your reasons for your opinion?

A. I think she would, from the middle of February, 1872, to the middle of April, 1872, or at any time during that period, she would have been worth from $300 to $350 per day clear money. I judge so from the fact as to what my own boat at that time earned—my own boat earned more than that during that time. I don't think during
263 that time my boat earned $8,000 each trip. I chartered the boat at one time for four days for $9,000. I don't say that I chartered her, but I was employed to bring the Grand Duke Alexis from Memphis to New Orleans, for which I got $9,000. It took me four days and a half to make the trip. I made clear over $450 per day on that trip.

Cross-examination waived.

(Signed) B. R. PEGRAM.

Subscribed & sworn to before me on the 16th day of May, 1873.

(Signed) R. H. SHANNON,
U. S. Commissioner.

Adjourned to Saturday, May 17th, @ 2 p. m., by consent of proctors.

SATURDAY, *May 17th.*

Met pursuant to adjournment.
Present,

JAMES F. HICKS, sworn for steamer Richmond, says:

I know the steamboat Richmond in February, 1872.

Q. If you can, state what the steamboat Richmond would have been worth for a charter per day, from the 13th of February, 1872, to the 22d of February, 1872, taking into consideration the character of the business that season.

A. For a short charter, and for the season during that year, I
264 consider her worth, I will say, from $350 to $400 a day.

Q. What is your business, and how long have you been engaged in that business?

A. I have been in the business of steamboatman since the year 1847; I have been master for at least twenty years of that time.

Cross-examined by Judge VOORHIES:

I would say that if she belonged to me I would not have chartered her for $500 a day at that time.

Q. When you say that you value the Richmond at $350 to $400 a day for a charter of nine days on that occasion, do you mean to say that if she had been advertized properly to be chartered on such terms that she could have been so chartered?

A. I do not know whether she could or not.

Q. Then upon what do you base your opinion as to her value?

A. I was making about that much with the Belle Lee, a boat that not capable of making as much as the Richmond was at that time. The Belle Lee was in the Memphis and New Orleans trade at that time—the Richmond was in the St. Louis & New Orleans trade at that time.

Q. Upon what do you base your opinion that the Richmond was a boat better calculated than the Belle Lee to make heavy profits?

265 A. The Richmond was a boat one-third larger than the Belle Lee and was as cheap if not cheaper than the Belle Lee.

Q. Please state what do you mean by the Richmond running much cheaper than the Belle Lee?

A. The only difference is that she burns much less fuel than the Lee; other matters are about the same as to expense. I had a chance to know this as I had her chartered for one trip. There is no difference in other respects except as to wharfage, as she carries a little more.

By Mr. SINGLETON:

Q. What is the daily expense of the Richmond when running?

A. About $700 or $800 a day, somewhere in that neighborhood. The Richmond carries 1,800, 1,900 tons, probably more—say 2,000 tons. I do not know what the value of freight was in 1872. I do not know what the Richmond was earning. I was only in the Memphis trade.

Redirect:

Q. How did the rates of freight compare during that period with the ordinary rates?

A. I know that freight run very high.

Recross:

Q. I do not know that boats were loaded down at that time going up. They had very good trips. I do not know what cargo the Rich-

mond had on her at the time of the collision. I suppose it would
266 take the Richmond from 16 to 18 days for a round trip from New Orleans to St. Louis; that includes the time she would be at the wharves loading and unloading.

(Signed) J. F. HICKS.

Subscribed and sworn to before me this 17th day of May, 1873.

(Signed) R. H. SHANNON,
U. S. Commissioner.

JOHN H. BURKE, sworn for Richmond:

I am a master of a steamboat for 18 or 20 years on the Mississippi River. I was acquainted with the steamboat Richmond in February, 1872.

Q. Can you state what the Richmond would have been worth on a charter of twelve days or longer in February, 1872?

A. I can only judge by a boat that I was running at that time myself; her time at that time was worth $200 a day. The Richmond, I am satisfied, would have been double, more than double.

Cross-examined:

Q. Have you any personal knowledge of the money-making capacity of the Richmond at that time?

A. I know from her capacity at that time, she ought to have made a great deal of money. I was running in the St. Louis trade at
267 that time—the freight for my down trip a few days before the accident was 40 cents per hundred pounds; at that time we had as much freight as we could carry; this was about the middle of February, 1872. I think my freight up was 25c. per hundred; my boat carried 900 tons. Carried up stream about 600 tons; this was a few days after the middle of February. Our expense at that time going up was about $400 a day. It would take eleven days in taking in *taking in* cargo, going up and discharging cargo at St. Louis. At that time the passenger business was ordinary. In my case the passengers at that time paid more than the expense of preparing for them; my store bill was about $1,000, and receipts from passengers was about $2,500. The groceries was not the whole expense of passengers. The extra expense would not exceed $25.00 per day.

Q. All the steamboatmen have got rich during the past two years?

(Mr. Campbell objects on the grounds that the examination necessary in this report, the relative wealth or poverty of steamboatmen as a class, is impertinent and irrelevant.

As commissioner, I decide this question to be irrelevant and
268 rule it out, Mr. Singleton contending that the commissioner has no authority to pass upon any question as to admissibility of testimony taken before him under the order of reference in this matter.)

Q. Do you pretend to say that the Richmond could have been chartered from the 12th to the 22d of February, 1872, if she had been advertized at the rates stated by you?

A. I do not know.

(Signed) J. F. BURK.

Subscribed & sworn to before me this 17th day of May, 1873.

(Signed) R. H. SHANNON,
U. S. Commissioner.

JOHN S. NEAL, sworn for Richmond, says:

I have been a steamboatman for thirty years; I have been master for twenty years. I was master and part owner of the steamboat Richmond; I built her. I had no interest in her in February, 1872. I was acquainted with the Richmond in February, 1872.

Q. Will you please state what the Richmond would have been worth per day on a charter, say for 13 days to 25 days, commencing about the 12th of February, 1872?

A. A person could have made money by giving $300 a day at
269 that particular time. At that time freight was very high; it was in consequence of the gorge that this was so. The gorge in the river at Columbus, Kentucky, was broken on the 12th of February.

Cross-examined:

When the Richmond was fully laden she would carry 2,000 tons. When she had two thousand tons on, her guards are not out of the water at all.

Q. When the guards are five feet out of the water, how many tons would it take to sink the boat one foot?

A. I should suppose about 350 tons; maybe a little more. There would not be much increase on any subsequent foot. When the Richmond is light she would be about five feet out of the water from the guards.

Q. Could the Richmond have been chartered for a period of time extending from the 12th to the 22d of February, 1872?

A. I do not know. The Richmond could have taken at that time some 600 or 700 tons while the gorge was still in the river. The Richmond could go up in February, 1872, with about 800 or 900 tons for up freight. The price of up freight in February, 1872, was 40 cents per hundred, as I understood.

(Signed) J. S. NEAL.

270 . Subscribed and sworn to before me this 17th day of May, 1873.

(Signed) R. H. SHANNON,
U. S. Commissioner.

Adjourned to Tuesday, 20th May, 1873, @ 6 p. m.

Met pursuant to adjournment.

Present, Mess. Campbell, for Richmond, Mr. Voorhies; absent, Messrs. Cohen & Singleton.

Adjourned to Thursday, May 22d, @ 6½ p. m.

THURSDAY.

Met pursuant to adjournment.

Present, Mr. Campbell, Capt. Boffinger, Capt. Selby; absent, Messrs. Voorhies, Singleton.

Adjourned to Monday, May 26th, @ 5½ p. m.

MONDAY, *May 26th.*

Met pursuant to adjournment.

Present, Messrs. Campbell, Voorhies, & Capt's Selby & Boffinger.

Waited for an hour; no witness produced, and adjourned to Tuesday, May 27th, @ 6 p. m.

MAY 27.

Met pursuant to adjournment.

Present, Messrs. Campbell and Voorhies, proctors; Capt. Selby, of Sabine, and Capt. Boffinger, of Richmond.

271 The case, so far as the question of damages against the Sabine for collision with the Richmond, in suit No. 9822, U. S. dist. court, is closed and submitted; also, the question of costs against the Sabine and the Merchants' Mutual Insurance Company, as intervenors, is also submitted.

Report made and confirmed by Judge Durell.

(Endorsed:) Off'd before me by respondents & cross-libellants, 19 May, 1875.

(Signed) J. W. GURLEY, *Com'r.*

Rule to vacate appeal.—Entered and filed May 20th, 1875.

U. S. circuit court.

SARAH C. SHIRLEY & AL. *vs.* ST'R RICHMOND. } 7057.

On motion of E. C. Billings, proctor for st'm'r Richmond, ordered that libellants show cause on Saturday, 22d instant, at 11 a. m., why the order herein on 15th instant allowing an appeal should not be set aside and vacated as having been prematurely allowed.

Order granting appeal vacated.—Extracts from minutes of 29 May, 1875

SARAH C. SHIRLEY & AL. *vs.* ST'R RICHMOND. } No. 7057.

272 The rule taken on 20th instant was called; E. C. Billings, for mover, R. H. Marr, for defendants in rule; when after hearing. counsel it is ordered that the rule be made absolute, and that the order made on 15th instant, granting an appeal in this cause, be set aside and vacated as having been prematurely allowed.

Report on question of damages sustained by st'r Richmond.—Filed June 4, 1875.

To the honorable the circuit court of the United States for the fifth circuit and district of Louisiona.

S. C. SHIRLEY ET AL. *vs.* ST'M'R RICHMOND. }

AND

MERCHANTS' MUT. INS. CO. *vs.* ST'M'RS RICHMOND & SABINE. } 7057.

These cases were referred to the undersigned commissioner on the

19th April, 1875, to ascertain and report the damage sustained by the st'm'r Richmond and the Merchants' Mutual Insurance Company.

The counsel representing the Merchants' Mutual Insurance Company declined presenting their case at the present time, and no
273 testimony has been heard or action taken in regard to it. The result of the examination and detailed report of the damages assessed in favor of the steamer Richmond is herewith presented, with notes explanatory of the ruling of the commissioner.

All of which is respectfully submitted.

N. Orleans, 4th June, 1875.

(Signed) J. W. GURLEY,
Comm'r.

Statement of damages.		Claimed.	Allowed.
See note *a*.	Wages of crew	1,750 00	1,750 00
b.	Fuel	500 00	500 00
c.	Bow, dock & repairs	1,050 00	1,050 00
d.	Wharfage	110 00	45 60
e.	Stores consumed	600 00	600 00
f.	Loss, freight list	5,000 00	2,150 00
g.	Loss, passenger list	600 00	
h.	Survey & protest	40 00	40 00
i.	Consumption, oil & rigging	100 00	100 00
j.	Loss of time while repairing boat	2,250 00	1,157 00
		$12,000 00	7,392 60

Total amount allowed as above, seven thousand three hundred and ninety-two $\frac{60}{100}$ dollars.

Attest:

J. W. GURLEY,
Comm'r.

Notes.

274 *a*. This amount has been allowed as claimed. The steamer commenced taking in cargo for the trip on which the accident occurred on 2d Feb'y; many of the crew were hired at a later date, and it may reasonably be presumed not without necessity; the wages are allowed up to the date of seizure.

b. This is fully established as the cost of the fuel used; keeping up steam in the damaged condition of the boat was a mere precaution to guard against accident.

c. I think it proved that the amount claimed as cost of repairs was expended for that purpose, and that the damage repaired was that caused by the collision.

d. Wharfage is allowed from the 2d Feb'y to the 17, both inclusive, at the rate of five dollars per day, 16 days, $80. But it is shown by the testimony that forty-three per cent. of the amount is to be refunded by the city; the difference, $45.60, is allowed.

e. This is allowed as reasonable under all the circumstances of the case. A large portion of the supplies consisted of fresh meat, vegetables, ice, &c., of a perishable character, and consequently much that was not consumed was lost.

f, *g*. Loss of freight and passenger list, $5,600.00. But the boat has not earned this money until she had carried the freight and pas-
275 sengers to St. Louis. Taking the average of Boffinger's estimate, she would have picked up on the way freight and passengers to

the amount of $1,750 (p. 20), which would have increased her earnings to $7,350 by the time she arrived at St. Louis. But it would have taken her 6½ days to make the trip (McCord, p. 128, Boffinger, p. 23), and her expenses at $800 per day, as estimated by McCord, p. 127, and by Boffinger, p. 62, would amount to $5,200, which deducted from her gross earnings, $7,350, would leave $2,150 as net profits, which is allowed.

h, *i*. These are allowed.

j. The evidence as to the time occupied in repairs is unsatisfactory. McCord does not know, but thinks it was 6 or 7 days (p. 95–6); Boffinger (p. 9) says it was 9 days, and thinks they were completed 20th Feb'y. Both, however, state they were completed at the time of seizure by the marshal. The date given by Boffinger, 20th Feb'y, is assumed as correct. It has been shown (*f*, *g*) that the net profits made by the Richmond in six and a half days were $2,150, or 330\frac{10}{23}$ per day. This has been taken as the most satisfactory and just basis on which to assess the damage by the detention. Her trip to St. Louis, for the profits of which she has already been allowed, would, if
276 really performed in 6½ days, have occupied her to the 17th Feb'y.

The interval between that date and the day on which the repairs are assumed to have been completed, viz, on 20th Feb'y, is three days and a half, which, at 330\frac{10}{23}$ per day, amounts to $1,157$\frac{5}{23}$, which is allowed.

Attest:

J. W. GURLEY, *Comm'r.*

Testimony for libellants.—Filed June 4th, 1875.

United States circuit court, fifth circuit, district of La.

SARAH C. SHIRLEY ET ALS. *vs.* STEAMER RICHMOND. } No. 7057.

MERCHANTS' MUTUAL INS. CO. *vs.* ST'RS SABINE & RICHMOND. }

Testimony taken before J. W. Gurley, master, etc., to ascertain amount of damages sustained by claimants of the st'r. Richmond in above causes, this 29th May, 1875.

Present, B. Egan, esq., for libellants; E. C. Billings, esq., for claimants.

N. C. SELBY, sworn on behalf of libellants, says:

Q. Were you master of the st'm'r Sabine at the time of her
277 collision with the steamer Richmond?

Ans. Yes, sir.

Q. On the morning on the 11th Feb'y, 1872?

A. Yes, sir; I was.

Q. Did you get on board the Richmond after the collision?

A. Did I go on board the Richmond?

Q. Yes.

A. Yes.

Q. How did you get on board?

A. I walked over a plank from the roof of the Sabine to the Richmond.

Q. Where did the plank rest on the Richmond and where on the Sabine?

A. I recollect it was on the roof of the Sabine, and I am not sure whether it rested on the boiler deck of the Richmond or not from the roof of the Sabine; that is the best of my knowledge.

Q. What sort of a load did the Richmond have at the time you went on board of her?

A. What sort of a load?

Q. Yes.

A. I cannot answer that; I don't know what kind of freight she had on; I don't recollect the freight.

Q. Was she heavily loaded or lightly loaded?

A. No, sir; she was not heavily loaded; as I said before, it stood up pretty high out of the water; I don't know how much freight
278 she had on her.

Q. Was she one-third or one-half loaded?

A. I don't think she was more than half loaded anyhow. That is my judgment or idea about it.

Q. Did you see any freight about her, or was it all in the hold?

A. Yes, sir; I saw some boxes on her, but I was not in the hold. I saw some boxes near the engine room; I think it was sugar.

Q. What was the injury sustained by this collision?

A. What injury did she receive?

Q. Yes.

A. Well, sir, I never examined her in my life, to know. I never saw anything myself, except broken down on the guard; I never examined her hull; I saw nothing broke but the knee; I did not examine the hull and don't know; that is all I can say.

Q. If the hold had been any way much injured, would you not be very likely to see it?

A. Yes, sir; if it had been broken in two, or shoved out of its proper place, I would have seen it.

Q. Do you know whether she made water after the collision?

A. I don't know.

Q. Did she lie by the Sabine?

279 A. She did.

Q. For what length of time?

A. She lay there from about four o'clock in the morning, I think, until four o'clock in the afternoon.

Q. During that time were her pumps going?

A. I did not see them going, and I don't know.

Q. If they had been going would *would* you not have known it?

A. If I went to look I would have known it, but I did not look, from the fact that I did not go in among the pumps.

Q. Would you not have heard them?

A. I don't know that I would if she was lying with steam up.

Q. What was she doing alongside of the Sabine?

A. Taking off the cotton.

Q. What amount of cotton did she have taken off?

A. I don't remember; but it appears to me to be about three hundred bales, or two hundred and eighty; somewhere about that; that is my recollection.

Q. Were there any attempts to stop any leak on the Richmond?

A. Not that I saw.

Q. If there had been any attempt to stop a leak would you have known it?

280 A. If she had been leaking very bad, or about to sink, I should think there would be some attempts made, but I did not see whether it was so or not.

Q. From your position on the Richmond, if there had been any attempts made to stop a leak, would *would* you have been likely to have known it?

A. If there had been any great damage done, it appears to me that there would have been something said about it, and I would have heard it, but I did not hear it. I would naturally suppose, from my experience on steamboats, that if there had been any great damage done, and she had been leaking badly, I would have heard something about it; but I did not hear it. I do not say that it was not the case.

Q. Did you remain on her until she came back to New Orleans?

A. I did.

Q. What time did she arrive at New Orleans?

A. I think it was about half-past five o'clock—between five and six.

Q. In the evening of what day?

A. On the afternoon of the 11th day of February.

Q. Sunday, the 11th?

A. Yes, sir; the same day.

281 Q. Did you then leave the boat, or did you remain on her?

A. When she came to the wharf?

Q. Yes.

A. Yes, sir, I did leave the boat.

Q. And went ashore?

A. Let me see if I did. Yes, I left that afternoon some time.

Q. Did you come back to her any time; then, or the next day?

A. Yes, sir; back every day for many days. I don't know how long, but during the time she was lying at the wharf; I think every day.

Q. When did they commence to put the low dock under her, or began to make the repairs that they speak of having been made to her?

A. My best recollection was, two or three days afterwards. I don't remember exactly, but that is my recollection about it now.

Q. Two or three days afterwards?

A. Yes, sir.

Q. Who was employed to make these repairs?

A. My understanding was that by the man swearing to it. It was McHaffey, a man I knew on the levee. I heard him swearing to them.

Q. Do you know how long they were occupied making these repairs?

282 A. No, sir; I don't know exactly how long; some two or three days; may be a week. I don't remember exactly, but it was not a great while.

Q. You heard McHaffey testify to the repairs that were done?

A. Yes, sir.

Q. And you heard several witnesses on the part of the Richmond describe the injury she has sustained, did you not?

A. Yes, sir; I heard them.

Q. Now, from your experience as a steamboat captain, how long ought it have taken to repair the injury that the Richmond was said to have sustained by this collision?

A. Not knowing the extent of the damage, as I said, I don't know. That is a question I cannot answer. If I knew the extent, I could make a sort of estimate; as I did not see any, only the knee, I cannot say what the damage was.

Q. Have you not heard several of the witnesses for the Richmond describe the injury he had sustained?

A. Yes, sir.

Q. Will you state what that injury was?

(Objected to.)

A. Most of them were of opinion from looking at her, as I was,
283 that there was nothing done to her; that she had not sustained any injury. That was the general decision of steamboatmen at the time. I saw nothing but that knee; although I did not go into the hold; but these inspectors will tell you that fact.

Q. I think McHaffey says that she had a broken knee?

A. Yes, sir.

Q. And a small hole in the hull and a twisted stem?

A. Yes, sir.

Q. What would that cost to repair?

A. He swears that it cost $517.

Q. I want to know from you what they would cost to repair?

A. I am not a ship carpenter and I cannot tell you. That is a question which I cannot answer. I have never had nor never done a job of the kind in my life.

Q. How long have you been steamboating?

A. About twenty-eight years. I went on the river in 1847.

Q. Did you ever have steamboat work done?

A. Yes, sir.

Q. Are you familiar with the prices charged for putting or doing work necessary about a steamboat?

A. Yes, sir.

Q. Now will you tell me what it would cost to repair a broken
284 knee, a small hole in the hull and a twisted stem, as described by the witnesses for the Richmond?

A. Now, Mr. Egan, let me ask you how could I know what it cost.

Q. I ask you and you told me you had some knowledge of steamboating, and you can form some estimate of it?

A. Put the question again, and ask me if I know what I think it would be.

Q. About what would it cost to do a job of that kind, from your knowledge of the business?

A. To put back a broken knee, to patch a hole and fix the stem, I think I could get a job of that kind done for probably $100 or $150. I don't think it would be over that; I could have got that done myself.

Q. In repairing the stem of a boat like the Richmond, said to be twisted, would it be necessary to keep fire under all her boilers, or could it be done without keeping any boilers going; or if any pumps were to be kept up, or if any fire was to be kept up, under what boiler would it be kept up?

A. I don't think so, from all the twist that I saw on her. If
285 the stem was twisted out I might say it was necessary, but from what twist I saw, I would not say it was necessary. If it was twisted I never thought so; and, as I said before, I never could see that it was twisted.

Q. But I want to know from you if a boat was to come down here with her stem twisted, and she found it necessary to make use of a low dock for the purpose of repairing the injury she sustained to her stem, she bound to keep fire under all the boilers?

A. You want to know if the stem was twisted would it be necessary?

Quest. Yes.

Ans. If it was twisted so as to make her leak badly it would, but I say I did not see it twisted and did not think it was twisted. But if it was twisted out of its proper place it would require it, but I did not see that.

Q. If a boat came down here with her stem twisted and she was desirous of having that repaired by a low dock, is it necessary, after putting the low dock under her, to keep up steam on all her boilers?

286 A. After putting the low dock under her?

Q. Yes.

A. No, sir; that is my experience after the low dock is put under her.

Q. Then when you say that it might be necessary to keep steam under her boilers you have reference to the injury she may sustain before the low dock is put under her, you have reference to the condition of the leaks before the low dock is put under her?

A. It would depend upon how much it was twisted. If the stem was twisted out it would undoubtedly have required it. If it was twisted but a little, it would not be necessary, because it would be a very little leak.

Q. If you employed a low dock for the purpose of repairing the injury sustained by the stem, is it necessary to keep up steam on any boilers while the low dock is doing the repairs?

A. State that again.

Q. If a low dock is employed to make the repairs to the stem of a vessel, is it necessary while the low dock is making these repairs to keep up steam on any boilers of the vessel?

A. No, sir; I think not, not when the low dock is under her.

287 Q. You think not?

A. I think not; not when the low dock is under her.

Q. Do you know whether the Richmond had steam up, or was burning fuel while undergoing repairs?

A. I don't believe I recollect seeing anything of that kind. I don't say that she did not have steam up, but I did not see her with steam up until she went to go out.

Q. If she had steam up while undergoing repairs would you not have seen it?

A. I don't know whether I would or not. She might have been lying there with steam on her boilers and we not know it without examining it. Such things have been. I have gone down to the river to boats with steam on their boats and did not know it.

Q. You say you were on the steamboat Richmond from the time of the collision, at about two or three o'clock in the morning, until four or five o'clock the same evening?

A. Yes, sir.

Q. You had an opportunity to see what passengers she had?

288 A. I was on the Richmond after the collision, but not at the time of the collision. At the time of the collision I was on the Sabine. I was on the Richmond from four o'clock in the morning up to five or six o'clock that evening.

Q. Would you have an opportunity during that time to have seen what passengers she had?

A. Yes, sir; I saw her passengers.

Q. How many did she have?

A. Well, I suppose I thought she had between twenty-five or twenty, perhaps thirty. What makes me recollect that so well is because I was talking to several of them who had to start on to go to Baton Rouge,

and they were complaining very much for having taken that packet instead of the St. John. The St. John landed beside her, and took the greater portion of her passengers off.

Q. How many of them came back to New Orleans?

A. I did not count them. I think not over five or six. Six was all I saw. I know exactly what I swear to. I did not see any more. That is all I saw.

Q. Where was the St. John running to?

289 A. The St. John, I think, was running to Baton Rouge. She was a coast packet. That was my understanding.

Q. Then the passengers taken off by the stm'r St. John were bound for places on the coast?

(Mr. Billings objects to the question, as the witness has stated no such fact.)

A. That was my understanding. They were going to points between there and Baton Rouge. There was some convention going on; that was my understanding of the affair, and they were going there. Captain Green hailed her in, and she came, and I heard the conversations between them.

Q. Where did you infer these passengers who came back on the boat were going to?

A. I don't know.

Q. Did you have any conversation with any of them?

A. I don't know. I don't remember whether I had or not.

Q. Do you know whether she sold her freight and received anything for it?

A. I don't know that.

Q. Do you know whether freights went up after the collision or not?

A. I do not.

290 Q. Do you know whether some time after the collision that freights were not higher?

A. Well, of my own knowledge, of course I don't know, but I heard.

Q. Go on with what you heard.

A. I heard that freight was very high from the fact that the river had been frozen, and if you look over the testimony I think you will find that Captain Green swore to that. That is my understanding of it.

Q. Did you hear it from Capt. Green?

A. I heard it from Capt. Green and the other officers; that was the reason they were trying to bond her out; that they would earn more freights at that time of the year than any other.

Q. Do you know whether navigation was not stopped, or reported to have been stopped by an ice-gorge about the time the Richmond was bound on this voyage upwards, when she came into collision with the Sabine?

A. That was the report, that the river was full of ice, some place between Memphis and Cairo, about that time; maybe a little before.

Q. Would that have prevented the Richmond from completing the voyage for any length of time?

291 A. Undoubtedly. If they proceeded up and they found the gorge it would have prevented her.

By Mr. BILLINGS:

Q. If a gorge was there at that time?

A. Yes, sir.

By Mr. EGAN:

Q. From your knowledge of steamboating and the freight and passen-

gers the Richmond had and the expenses to make the voyage, would she have made a loss if she had completed her voyage to St. Louis?

(Objected to.)

A. I cannot tell you unless I knew her exact receipts. I know about the cost, but don't know about her receipts. If I knew them, I would tell you whether she could have made anything on the trip?

Q. I ask you, from your knowledge of steamboating and the freight and passenger list that you could see on this boat, and the expenses of a boat like the Richmond on a voyage to St. Louis, and the rates of freight and passage going at the time, whether she would, in your opinion, have made or lost upon the trip?

(Objected to.)

292 A. From the statements of the receipts of the clerk of his freight, and the expenses that they all say she was at, I cannot see that she would have made anything, but lost something. I am only taking his own statements. I know nothing about it myself.

Q. From your knowledge of steamboat matters, what would you infer would have been the result of that trip in regard to profits or losses?

A. I say this, that if that is all she had, and her expenses, that she would have lost money; that would be my experience. I would expect to lose money on these expenses and that amount of receipts.

Q. Is it usual on these up river boats to rely more upon the profits to be made on the down trip than on the up trip?

A. Yes, sir; that has been our big trip, and has been for several years—the down trip.

Q. Does the same rule apply to all other boats as well as to the St. Louis boats?

A. It is not a rule, but our receipts are always bigger coming down than going up the river; that is, through freights to St. Louis.

Q. Have you ever seen the Richmond come down stream
293 with a trip as small as the one she had going up then?

A. I never did, not as I seen her.

Q. Would it have been advisable for any boat to come down stream with the kind of trip the Richmond had going up.

A. I would not have done it with my boat. I should not like to start with that kind of a trip to come down. Unless I got more encouragement I could not do it.

Q. Were the repairs on the Richmond complete before the marshal took possession of her or afterwards?

A. I really don't remember about that.

Q. Where did the marshal remove her to after he took possession of her?

A. After he took possession?

Q. Yes.

A. Well, sir, he took possession of her on the wharf and was on her several days. I don't know exactly how long, but I think she was here some ten days, and afterwards they removed her to Algiers, across the river.

Q. Previous to that she had been lying alongside of the Sabine?

A. Yes, sir; the Sabine was pulled just under her at the wharf.
294 We were lying side by side for several days. I don't remember how many.

Q. Do you recollect going on board the Richmond after she was lying alongside of the Sabine while in this port?

A. Yes, sir; several times.

Q. Was this after her repairs?

A. Yes, sir; I was in her after she was repaired, and I think, probably, I was on her once or twice during the repairs.

Q. After she was repaired, what was her condition?

A. Her condition?

Q. Yes, her condition after her repairs?

A. Her condition was the same as before. I did not see anything particular, except that it was the same Richmond. There was nobody at work upon her.

Q. Did she seem to want any repairs?

A. I did not see it.

Q. If there had been anything broken about her, would you have seen it?

A. If there had been anything broken in sight I think I would have seen it.

Q. Did you see her with a broken knee?

A. Yes, sir; I saw that. The knee was not broken. The deck was broken and the knee was pushed down through the deck. It was an outrigger.

295 Q. That the knee rested on?

A. Yes, sir.

Q. Is that the only thing that you saw broken about her?

A. That is the only thing that I will swear to.

Q. Did you see her stem twisted?

A. I did not see any such thing.

Q. Do you know whether the Richmond expended any oil or stores during the time she was lying at the wharf?

A. I don't know.

Q. Or rigging?

A. I don't know.

Q. Do you know whether her crew was discharged?

A. They were discharged in a day or two after she came here—after they took the cotton off. I think they were discharged then; that is my impression.

Q. Do you know whether she received any compensation for saving this cotton?

A. I don't know that, but the captain told me he was going to have it. He told me he was going to have it, and undoubtedly, I think, he was entitled to it.

By Mr. BILLINGS:

Q. But he never got any?

A. That is a question I cannot answer.

296 By Mr. EGAN:

Q. What are the usual fuel bills of a boat like the Richmond, per day?

A. A day?

Q. Yes.

A. I never run the Richmond and never paid her fuel bills, and I cannot state anything, only my belief about the matter. That is all I can give you.

Q. Give me your experience as an expert upon it.

A. I should think she would use—that is, running now in the river with steam up, up the river—I think she would use a thousand bushels of coal every twenty-four hours.

Q. How many boxes would that be?

A. That depends upon how many bushels there are in a box. They sell coal now in boxes, but do not tell you how many bushels; but I believe they say there are two and a half bushels in a box. That is what they propose to sell in a box. I should judge there is a thousand bushels used on the Richmond every twenty-four hours.

Q. Do you know what is the usual store bill on a boat like the Richmond?

A. For how long? Do you mean for the trip from *year* to St. Louis or for a day?

297 Q. For a trip from here to St. Louis.

A. I should suppose that laying in stores for a trip from here to St. Louis would be $600 or $800. That is my experience.

Q. Suppose the voyage was broken up the first day out, how much of these supplies could be returned?

A. I should judge, if they were out only a day, two-thirds of them could be returned. They could not have got away with the whole of them.

Q. Would that estimate make an allowance for such as were perishable, as ice?

A. No, sir; you could not return ice; that would be waste. If they had anything left of it, I suppose they could have returned it; but ice wastes.

Q. Would you think two thirds a liberal allowance, even including waste?

A. Yes, sir.

Q. What is a boat like the Richmond worth a day under charter, or for any given time?

A. I only speak from her character, knowing her owners, and often hearing them say that she lost a good deal of money for them. I would not have her. I would not go on her at all. I would not have a

298 steamboat like her.

Q. Could she have been chartered for any sum of money?

A. I wouldn't have given anything for her. I wouldn't want to charter her. I would not want her at any price.

Q. Is there any market for a boat of her character for from six to ten days under charter?

A. Well, such occasions are very seldom.

Q. I want to know whether there is a market.

A. A market for a charter?

Q. Yes.

A. I have never experienced it, and don't know. I don't know of anybody that wanted it; that is all I can say.

Q. Have you, in the course of your experience as a steamboat man, ever seen any boat of the character of the Richmond chartered for from five to eight days?

A. I cannot answer that question; but I don't know that I ever saw a boat of the size of the Richmond with the character she had. Her character has been that she has never made money, and has bankruptcied most of her owners.

299 Q. Have you ever heard or seen a boat of the character of the Richmond being chartered for 5, 8, 10, or 15 days? If you have, just give the particular instances of which you heard and the kind of boat.

A. I have stated to you that I never knew just such another steamboat like the Richmond.

Do you mean large boats?

A. Yes; the only one I knew was the James Howard, being chartered to bring the Grand Duke here for so much. That is the only one I know of my own knowledge while I was steamboating, unless those for the government during the war when they took everything large and small.

Cross-examined:

Q. Did you not yourself testify as to the value of the Richmond when she was being bonded?

A. I reckon not. I don't recollect it, and I don't think I ever did.

Q. Will you swear that you did not estimate her value to be $50,000?

A. No, sir; I will not swear, but I don't think I ever did state any value.

Q. You will not swear that you did not estimate her value to be $50,000?

A. No, sir; but my belief is and the records show that I did not do any such thing.

300 Q. Who managed the case on the part of the Sabine here?

A. Who was the proctor?

Q. No; who was the party managing the case on the part of the Sabine?

A. In court?

Q. No; in preparing the case and conferring with the counsel?

A. Myself and Shirley.

Q. Did you and Shirley not produce a great number of witnesses when the Richmond came to be bonded, to show that she was worth $50,000?

A. I don't remember.

Q. Will you swear you did not?

A. I will not.

Q. Don't you know that witnesses were called on behalf of the Sabine to prove that she was worth $50,000?

A. I know she was appraised.

Q. But did not you call witnesses before the court to prove that the Richmond was worth $50,000?

A. I don't know.

Q. Did you not get John Janney to come and swear to that?

A. I don't know. I know he was an appraiser, but——

Q. You handed his name in?

A. We selected him and Judge Durell another.

301 Q. Now, about the freights. Suppose a vessel had been detained some five or six days before she had disposed of her supplies, and it had been lost, you say it could have taken $800 for the trip?

A. I said she would take to the amount of $600 or $800 in stores.

Q. What crew do you allow them to take the boat to St. Louis?

A. Sufficient crew.

Q. I want the number of men and the number of passengers that you put into that estimate?

A. I don't know what crew she carried; some captains are very extravagant.

Q. You make the estimate without knowing what the crew of the Richmond was?

A. I never knew what the crew of the Richmond was.

Q. Then when you made your estimate of the expenses to be $600 or $800 you did not know what the crew was?

A. I say I made that estimate for a boat like the Richmond to go to St. Louis, $600, or $800, I suppose; I think so.

Q. How much crew is included in your estimate, for of course the supplies depend upon the number.

302 A. A sufficient crew to take her.

Q. How many?

A. I will not cut them down to a single man. I don't know what the freight would be, but that would be about the amount of stores she would require.

Q. Name the number of the crew?

A. I would not want over thirty men on deck.

Q. What kind of men?

A. I would not care whether they were black or white if they worked.

Q. But firemen, deck hands or what?

A. Firemen and deck-hands I suppose. I would not want them mixed up.

Q. How many firemen?

A. I don't know. I would divide them up after the boat went out.

Q. You don't know how many you would take?

A. No, sir; until I saw her fixed on a trip.

Q. How many deck hands?

A. I would not want any more than two on her.

Q. What would you do at night if both leads were called for on both sides of the boat?

A. I would have men to heave the lead.

Q. You would keep the men on watch at night?

A. No, sir; we have always men on steamboats who can heave the lead all the time.

303 Q. How many passengers did you allow in your estimate?

A. All I could get; I might get a great many, or very few.

Q. Then your supplies would depend upon the number of passengers?

A. Of course it would depend upon the number of passengers.

Q. How many passengers do you allow in your estimate of $600 or $800?

A. About what we usually get from here.

Q. You have heard the question?

A. Yes, sir.

Q. Will you answer it?

A. I will.

Q. What is the number?

A. Does any man know how many passengers he will get?

Q. About how many passengers would you allow in your estimate of $600 or $800?

(Witness declines to answer the question further than by saying "What we usually get.")

Q. Would the number of men you would have to have and the quantity of supplies that you would have to have depend upon the amount of freight the boat was to carry?

A. Would what?

304 Q. Would the number of men you would have to have and the quantity of supplies that you would have to have depend upon the amount of freight the boat was to carry; yes, or no?

A. I just made my statement to you of what crew I would start with.

That trip when I saw her there was a sufficient crew to work the Richmond.

Q. How many tons of freight would you allow and get men for in order to get your estimate at $600 or $800?

A. That would be owing to the passengers I had and the amount of freight.

Q. That is undetermined also?

A. Yes, sir.

Q. What is the capacity of the Richmond?

A. They have said eighteen hundred or two thousand tons; I don't know.

Q. You thought her about half loaded?

A. I said she was not more than half loaded, and I have my doubts about that.

Q. That is as near as you can get it?

A. Yes, sir.

Q. Were you ever on a boat as large as the Richmond?

A. I have been on the Richmond.

Q. Have you ever been on a boat like as master?

A. No, sir.

Q. Were you ever master of a large boat?

A. Yes, sir; master of pretty large steamboats.

305 Q. What one; the largest?

A. The largest one was the Meteor.

Q. What was her capacity?

A. I think she claimed to be eight hundred and fifty tons.

Q. You said you were not in the hull of the Richmond to see what injury was done?

A. No, sir; I was not.

RICHARD L. ROBINSON, sworn for libellants, says:

Q. You are an insurance inspector?

A. Yes, sir.

Q. You represent whom?

A. The underwriters' offices in New Orleans.

Q. How long have you been an insurance inspector?

A. Forty years.

Q. What was your occupation previous to that?

A. A mariner.

Q. Are you familiar with steamboats and other vessels?

A. I may be for the length of time I am working at them.

Q. Did you see the Richmond after she arrived at the wharf after the collision?

A. I was there.

Q. Were you called upon in your professional capacity to hold any survey or make any examination of the injuries she and the Sabine sustained?

306 A. I was called upon to make a survey of the Richmond of the damage done the Richmond and the Sabine, and I made it.

Q. Who assisted you at that survey?

A. I think it was Capt. Cooper.

Q. Who called upon you to make the survey?

A. That is more than I can tell, but I think it was the captain of the Richmond.

Q. Who was the captain of the Richmond?

A. I don't recollect.

Q. Do you recollect the result of that survey?

A. No, sir, I do not; I don't recollect what damage the boat had received, but I recollect distinctly of stating it all in the survey which I made.

Q. Have you got any written memorandum of the survey?

A. I have the record of it.

Q. How long would it take you to furnish a copy of it?

A. I suppose I could copy it in an hour.

Q. Do you know whether from the injuries the Richmond sustained it was necessary to keep up fire on all her boilers?

A. I don't recollect.

Q. Would you be able to recollect if you saw your survey?

A. I could state what damage I found by looking at the survey.

307 Witness here produces his record containg his written statement of the survey made by him of the steamboat Richmond, and says:

I made this survey at the request of Captain Green, on the 15th February, 1872. I find that Captain Cooper was not on this survey. I find that it was myself and my son, who is still in the city, but is now unwell.

Q. You made that record the day that the survey was made?

A. Yes, sir; at the time, dated Feb'y 15th, I furnished a copy of it to the boat.

(Mr. Egan offers the survey in evidence.)

Q. From your experience in steamboating and in repairs put upon boats under your supevision how much would it have cost to repair the injury sustained by the Richmond in this collision with the steamboat Sabine?

A. I would not undertake to say.

Q. About how much?

A. I don't think I could come within $500 or $1,000. I don't think the expense would be more than $2,500 or $3,000, or about that. I don't know what it did cost.

308 Q. In this expense what would you include?

A. As to repairing?

Q. Yes, what do you include?

A. The material and labor necessary, wood, oakum, pitch, fastening and paint.

Q. How much would the carpenters' work cost?

A. It was nearly all carpenter work, for the carpenters generally do the caulking and all, with all exception of painting and such things. It was not a very bad damage by any means.

Q. How long would it have taken to repair it?

A. That would depend upon the number of men and the opportunities they had to do it, in a difficulty of that kind.

Q. How long would it have taken to do a job of that kind with the usual force employed on it?

A. I suppose it might be done in four or five days. It depends upon how much of the hull they were in.

Q. Was any of this an old injury or was it recent?

A. All new, from that collision no doubt.

Q. Had the Richmond been injured previous to this collision or weakened in any way that you could see?

A. Not to my knowlege.

309 Q. Would it have been necessary to keep fire under the boilers of the Richmond while these repairs were being made to the stem?

A. I should judge not merely from the reading over this survey, but when the bow dock was under her and had control of her I should keep up sufficient steam to pump her in case of an accident upon her.

Q. What boiler would you have kept it on?

A. I don't know whether her docter boiler was sufficient or not. If it was, that was all that was necessary.

Q. The doctor boiler could be kept fired up with less expense than the whole six?

A. Of course.

Q. What would be the consumption of fuel to fire up the whole six boilers?

A. I don't know that. I don't know how many boilers she had, or what wood she burned, but less by a great deal on the doctor boiler than on the others.

Q. How long would it have taken the bow dock to repair the injury she sustained in the stem?

A. As I stated before, four or five days.

Q. You include the whole repairs?

A. Well, they all could go on at the same time.

310 Q. Was the stem injured underneath the water, or above the water?

A. It was injured down to the scarf. The scarf appears to have been at the water's edge.

Q. Did it extend below that?

A. It appeared to be caulked. As I stated before, her stem was hurt below that and it needed caulking. I presume it was caulked all the way down.

Q. Would it have been necessary to take that out?

A. The part above the water down to the edge.

Q. If it was not necessary to take the stem out it would not have been necessary to keep the fire under the main boilers, even admitting that it was necessary?

A. If the stem was not broken out it would not be necessary to take it out, but it was all taken out, down to the scarf.

Q. But if it was taken out only to the distance that you advised it to be taken out, should steam be kept up?

A. As a matter of precaution I should keep steam on the doctor boiler all along.

Q. Would the docter boiler be sufficient?

A. I don't know whether it would be sufficient or not.

311 Q. Was it not sufficient under any circumstances to pump her out?

A. I don't know.

Q. If the stem was taken out to the extent that you advised would it be sufficient?

A. The docter boiler, I should think, would be sufficient, but I don't know.

Q. Did you superintend the repairs while going on?

A. No, sir; I did not go to her.

Q. Do you know who did?

A. I don't know; Captain Green might have been there. I don't remember going to see.

(Cross-examination waived.)

Captain L. W. COOPER, sworn and examined for libellants, says:

Q. You are an insurance inspector for the port of New Orleans?

A. Yes, sir.

Q. You have been in that business for how long?

A. Nearly twenty two years.

Q. You have seen the report of the injuries sustained by the Richmond in her collision with the Sabine described in the survey of Capt. Robinson?

A. Yes, sir; I read the survey. I have no recollection of being on the survey.

312 Q. From your knowledge of such things, what would you consider to be the cost of effecting the repairs of that injury?

A. I should think the repairs as stated there in the survey could be done for from $500 to $800. That is my idea of it. I have seen expensive jobs done for that—the actual repairs.

Q. How long would it have taken to effect these repairs?

A. I should think about three or four days.

Q. Would the bow dock be under her all that time?

A. Yes, sir; the longest job to her would be the putting of the stem into her.

Q. Would it be necessary to keep steam on her main boilers while undergoing these repairs?

A. I should think probably that her docter would keep all the water out. I see no evidence of her leaking there. The survey says at her water-line, but there is no evidence of the boat leaking in the survey.

Q. You think the doctor boiler would have been sufficient to keep her clear?

A. Yes, sir.

Q. What would have been the expense of keeping fuel under the doctor boiler while undergoing repairs?

313 A. I don't know the price of fuel.

Q. Well, say eighty-five cents a bushel?

A. Even then I could not say.

Q. Would it burn ten or twenty barrels a day?

A. I don't know; I have no experience in burning coal on steamboats. I quit since they commenced.

Q. The doctor engine is worked by that one boiler?

A. Yes, sir; a special boiler.

Q. It has a small fire furnace?

A. Yes, sir.

Q. To what extent?

A. I don't know.

Q. Do you know whether a boat of the class and character of the Richmond could have been chartered for any sum of money?

A. No, sir; I know nothing about her. I know of no boats of that class being chartered. I have no knowledge of it. It never came under my observation.

Q. There is no market to charter them for five, six or eight days?

A. No, sir; I don't know anything about it.

Q. Do you know whether boats coming to this port do not generally bring their best cargo on the down trip, and rely entirely on the

314 down trip for making money?

A. They bring much heavier cargoes down than they do up. They are capable of carrying a great deal more down stream than up. A boat could carry much more down stream than up, without being overloaded.

Q. Do you know whether it is not a general rule among steamboatmen to anticipate their profits to result from the down trip?

A. As a general thing in the Western trades they do. In certain seasons of the year in the tributaries they anticipate their profits.

Q. In Western boats, say in February, on which trip would the profits be most profitable?

A. The most profitable trip, I think, would be the down trip.

Cross-examined:

Q. Suppose, as a matter of fact, although the survey does not speak of it, the Richmond leaked badly at that time, would not that change your figures in your estimate of $500 or $800?

A. If she was leaking badly I should consider it necessary to
315 keep the pumps going, but in speaking about these repairs I speak only of what that survey calls for

315 NEW ORLEANS, *May* 31, 1875.

Testimony resumed for libellants.

R. L. ROBERTSON, jr., sworn and examined, says:

Q. What is your business?

A. Marine inspector for the board of underwriters of the city of New Orleans.

Q. How long have you been engaged in that business?

A. Nearly twenty-one years.

Q. Were you ever called upon to survey the injury sustained by the Richmond in her collision with the Sabine on the morning of the 11th Feb'y, 1872?

A. I was, but I don't remember when it was.

Q. Were you called upon to hold a survey on that vessel, and when?

A. I cannot give you the exact date. My father and myself held a survey on the steamboat Richmond after the collision with the Sabine; that was in 1872.

Q. Did you carefully examine the injury the Richmond sustained?

A. Yes, sir.

Q. At whose request was that survey made?

A. Captain Nat. Green.

Q. Master of what boat?

316 A. The steamboat Richmond.

Q. Was the survey made in writing?

A. It was, and a copy is on file in my office.

Q. Will you furnish a copy of that survey?

A. I can, and will, if necessary.

(Mr. Egan will offer the copy in evidence when produced.)

Q. Does that survey set forth fully and clearly all the injury the Richmond sustained by reason of this collision?

A. It does, everything.

Q. From your knowledge of steamboating, how much would it have cost to repair that injury?

A. I should judge somewhere about $500 or $600 to repair it.

Q. Have you had much experience in repairing vessels or superintending the repairs of them?

A. Nineteen years doing nothing else, except four years when I was absent.

Q. Most of them had been repaired in New Orleans?

A. Yes, sir.

Q. Are you familiar with the prices charged for repairs?

A. Yes, sir; that is my business to know it; the prices of day's work, lumber and material of all kinds and descriptions, employees, carpenters, and such.

317 Q. When you say that the repairs could be effected for a certain sum, do you mean that that is the amount it would have to cost to repair that boat at the present time, or at that time?

A. At that time. I don't think that it could be repaired for much less now, if anything. It was all heavy material, which costs a little more than light stuff.

Q. Are you familiar with the business of steamboating?

A. Yes, sir; I owned enough of them to know something.

Q. Have you owned many of them?

A. Yes, sir; I owned enough to break me. I had an interest in seven at one time.

Q. Since you have been an insurance inspector, what number of steamboats have you been interested in?

A. In seven.

Q. From your knowledge of steamboating, could a steamboat like the Richmond, or could the Richmond have been chartered for anything in February, 1872? If so, state what amount she could have been chartered for.

318 A. That I cannot say. I know nothing about that part of the business. That is something I could not tell you anything about; the value of a charter I could not answer that at all.

Q. Do you know what would be the value of the use of her for eight or ten days in February, 1872?

A. No, sir; I could not answer that question at all. I could not give a positive answer, because she might be worth $10,000 to one man, and not worth a cent to another.

Q. Do you know whether there was any market for chartering vessels of the character of the Richmond for any number of days between eight and ten?

A. I don't know. I am not familiar with the upper trade at all. I was always concerned in the Red River boats.

Cross-examined:

Q. You made this survey in connection with your father?

A. Yes, sir.

Q. Both of you signed the survey?

A. Yes, sir.

Q. How do you account for the discrepancy between your estimate and that of your father, he putting it at $2,500?

319 Ans. I never seen any estimate at $2,500.

Q. He made that estimate on Saturday last.

A. Did he?

Q. Yes; and produced the survey.

A. I understood him to say that the valuation of the boat was $27,000.

Q. He testified as he saw the boat the repairs would cost $2,500.

A. I did not hear him.

Q. And you cannot explain the discrepancy?

A. No, sir.

Q. Who made the actual survey on that boat?

A. He and I together.

Q. How after February, 1872, was this matter of the damages to the Richmond first called to your attention?

A. This morning at about half past ten o'clock.

Q. Aside from your report of this survey, how much had you remembered about that damage?

A. Nothing in the world; we took everything; we took the captain with us to show us all the damage, and he did so.

Q. Aside from your report, which is in writing and which we had here, do you recollect about the damage done to the Richmond?

A. Nothing at all. There was nothing but what was reported.

320 Q. But I am speaking of the present time, how much of this matter you carried along since February, 1872, in your own mind.

A. I carried it along just the same as a man carries on in business continually. The case all came up in my recollection the Sabine. My attention was called to it from the testimony in a recent case. I was overhauling the Sabine's papers and found it out; that is how I remember these things.

Q. Suppose that the report of your survey had been lost and could not have been reproduced, how much would you have remembered about the boat?

A. Very little.

Q. Almost nothing?

A. I should not have remembered anything except that her bow was smashed up.

Q. How do you get at this estimate of $500?

A. From the quantity of the work done, and the way they work on them. I approve a great many bills for work.

Q. I want an itemized bill from you of the $500. You cannot jump at a conclusion. If you swear to an estimate at so much, you must show it.

321 A. I don't propose to swear positively that that work was done for $500, but to the best of my knowledge of the business, I should judge between $500 and $600 would be the value of the work.

Q. My question is upon how definite a basis your estimate was made; whether you took the surveyor's report and read it over, and then said very generally, I think that would cost $500 or $600, or whether you took a pencil and paper and said so much lumber required for such a purpose, so much iron, etc., and finally added it up.

A. No, sir; I did not do anything of the kind. Knowing the size of the boat and the cost of the materials as they were put up on the boat, I think $500 or $600 would do it. I would take the contract myself and do that work for $500 or $600.

Q. Give the items which enter into your estimate. I do not want to know what was required to be done, but so many days' work, how much timber, etc.

A. If the boat was here I could tell you. I could get this man to do a piece of work for $150, and if he takes six weeks at it he makes a mistake in his estimate, the fault is his own.

322 Q. You are here as an expert to prove an estimate of damages.

A. I don't understand it so. I am here as the party who held the survey to state what the damage was.

Q. But you have given your opinion as to the damages; now, I ask you to state the items which go to make up your estimate of the expenses for repairing the damages, because an estimate without the items is worth nothing.

A. Ten feet of new stem, three stack knees, ten outriggers, and there

must have been, as near as I can judge, thirty feet of nosing and facing. The gallows frame of the jackstaff was knocked down.

Q. Is there an allowance in your estimate for the repairs of the leakage of the Richmond?

A. No, sir; her stem was put in; it was cut off across; there was one stack knee put in.

Q. Can you state how much lumber and how many days' work all this would require?

A. I can; I know I was down there during the time it was done and after it was done, but whether it took two or three days, I cannot remember.

323 Re-examined by Mr. EGAN:

Q. Do you know whether it was necessary to have steam up on the main boilers when the work was going on?

A. I do not.

Q. Is it usual to have steam on the main boilers?

A. I don't think it was necessary to have steam up on the main boilers to make the repairs. The scarf of the stem was at the water-line, and the balance of the work was above the water.

Q. If the whole stem was taken out, it would be necessary to have steam up?

A. Yes, sir; and a whole dock put under her.

Q. But where the whole stem was not taken out, it would not be necessary to keep up steam on the boiler?

A. That is a question, too, because the lower end might be knocked out and the top not.

By Mr. BILLINGS:

The survey speaks of the necessity of making a further examination, to see how far down the break was?

A. Yes, sir.

By Mr. EGAN:

Explain what you call a scarf.

A. Joints cut in pieces of wood that are fastened into each other.

324 Q. It is a piece put into the stem to strengthen it.

A. No, sir; it is the diagonal joint of two portions of the stem, instead of being a square joint.

Jurat waived.

I. H. LYNCH, being sworn, says:

Am a master ship-carpenter; have been in the business in New Orleans last 15 & 16 years, and have been altogether in the business last 24 or 25 years. I kept a ship yard. Am familiar with business of repairing ships. I have carefully examined report of survey made by the two Robinsons, filed in this cause, as to the damage sustained by the Richmond in the collision with Sabine. I cannot give exact value unless I itemize it.

According to the report of the two Robinsons, the cost of the dock would be from $100 to $125—this is the bow dock. The stem, I suppose, would be 10 feet long, from 12 to 16 inches wide, and 12 inches thick, would make 100 to 125 feet of oak lumber; this is a rough guess, may be little more or little less, at 5 cents a foot. Stack-knee,

325 consisting of three knees put together, would cost six dollars per knee, and the facing outside of knee, $1.50; this is for material alone. The two outriggers would take 125 feet of pine lumber, at 3

cents per foot, for each outrigger. The 3 boiler deck stancheons would take 500 feet pine lumber for the whole three, at 3 cents again. The two braces of boiler deck and gallows-frame would take 150 feet pine lumber, at 3 cents. The oakum and white-lead would come to $5 (five dollars). This is all the material as contained in the survey, and would cost $84.00. The labor for making these repairs would cost $75.00, the dock from $100 to $125.

By putting 2 or 3 men at work, it would have taken one day after the dock was pumped out; 2 or 3 men could work at it to advantage, not more; the wages of ship-carpenters on the levee, at that time, varied from 5 to 6 days. Sometimes you have to sink the dock 3 or 4 times to fit; sometimes it will fit in the first sinking. It would take one half day to sink a dock I would have undertaken for $300, a big
326 price, to repair the damages as shown by the survey. I had a ship-yard at that time, and have sometimes 20 to 30 men in my employ; this is not at all times, but according to work. I am also interested in vessels, schooners, as owner; have been interested in 5 or 6

Cross-examined:

Have no place of business just now; my last place was at Pascagoula, 2 months ago. I say that a stem like the Richmond can be taken out and put in for less than $300.

The witness says: I did not read that part of the surveyor's report which said that the stem must be taken out. It would take $150 to take out the entire stem. I would build a new boat like the Richmond for $3,000.

(Witness now states that in stating he would build a new boat like the Richmond for $3,000, he was only jesting.)

I only read part of the survey, the latter part.

Mr. Egan, for libellants, offers the survey as evidence, which is as follows:

Steamboat Richmond collision.

FEBRUARY 14, 1872.

The steamer Richmond left New Orleans on Saturday night,
327 and when at Twelve-mile Point, above Carrollton, collided with the steamer Sabine, bound down, loaded with cotton, by which collision the Sabine was sunk, and the Richmond was damaged about the bow and stem, and had to return to this port for the necessary repairs.

The collision occurred on Sunday morning, the 11th February, between two and three o'clock a. m. The Richmond was laden with a valuable cargo of merchandize, and bound for St. Louis.

By request of Captain Green, and on the day above written, held a survey of the Richmond, and after a careful examination report as follows:

The stem is started forward at the head about five inches from the hud ends and driven slightly over to the starboard, and had been more or less started as far down as can be seen, and a piece broken out of the port side of the stem, so that it must be taken out as far down as the scarf, which is now about the water line, so that it will be necessary to put a bow dock under her to take out the broken stem, examine the lower part, and caulk where necessary. One
328 of the four huds had been broken in, on the upper side, so that four feet of it has to be taken out and new put in, three by three inches. One stack knee on the port side has been knocked down,

so that the bolt must be cut, the knee taken off, refastened, and put back to its place, rebolted and secured again. Two outriggers on the port side broken, to be taken out and new put in, six by twelve inches, fourteen feet long. Three boiler-deck stancheons, 17½ feet long, nine by ten inches. Two braces, which support the upper cross-pieces of the jackstaff, knocked out, and must be replaced again; and hud ends and seams, each side of the stem, recaulked and payed as before."

New Orleans, February 15, 1872.

(Signed) R. L. ROBERTSON, JR.

Q. Now you have heard this report read over to you carefully?
A. Yes, sir.
Q. Do you find from that that the whole stem had to come out?
A. No, sir; only about six feet, as he stated, in the stem.
Q. How far down does it come out?
A. Six feet from the deck.
Q. What distance would that carry it down?
A. About six feet from the deck.
Q. But would that carry it below the water line?
329 A. About at the water line, as near as I can reckon. I never measured the boat.
Q. What is the meaning of the word scarf as described in this report?
A. The scarf is two square pieces of wood where they butt the two square ends together and cut a scarf.
Q. What is the object of this scarf?
A. To strengthen the wood connection.

(Witness draws a diagram of the scarf, which is offered in evidence by Mr. Egan, as on next page, and then continues:) I make my estimate of this bow and stem from "deck" to "*a*," on the presumption that that part from the small "*b*" down to the keel-scarf is in good order.

Q. Then there is more than one scarf in the bow piece in general?
A. Yes, sir; if this is too small, they make another.
Q. The object of which is?
A. To make a sweep in the stem by putting two or three pieces.
Q. One part of it can be taken out without injury to another part?
A. Yes, sir; even if they injure one, below the first scarf on the lower piece, they could make another scarf on the lower piece below.

Cross-examined:

330 Q. Is there any more of your evidence that is in jest other than you have stated to be so?
A. No, sir.
Q. You say that you affirm and swear to it?
A. Yes, sir.
Q. What boats have you repaired in your time?
A. I have been jobbing on the levee for the last——
Q. What steamboats, I ask you, have you repaired as boss carpenter?
A. I have been on the levee for the last five or six years, anyhow, as a ship-carpenter.
Q. As the boss of a job, what repairs have you done?
A. I repaired the Bradish Johnson within two weeks ago, and the Hensley, for Mr. Wood.
Q. Have you done much carpenter work for Mr. Wood?

A No, sir; I never done any before.

Q. What boats have you repaired prior to the Bradish Johnson?

A. It is so long ago that I don't recollect.

Q. What boats have you repaired prior to the Bradish Johnson as a boss carpenter?

A. I repaired the Countess in the New Canal.

Q. I am speaking now as to what boats you repaired as boss carpenter. You say you have repaired in the New Canal?

331 A. Yes, sir; the steamboat Countess.

Q. Is that a large boat or a small boat?

A. A very large stern-wheel boat; I had a ship-yard at the time.

Q. Have you done any repairing at the wharf of New Orleans as a boss carpenter?

A. Yes, sir.

Q. What boats have you repaired?

A. It is so long ago that I don't recollect.

Q. Did you do any work in 1872 at the time this work was done to the Richmond?

A. No, sir.

Q. Do you know the price of carpenters' wages on the levee in February, 1872?

A. Five or six dollars a day.

Q. Are you certain it was only five or six dollars a day?

A. That is all at that time.

Q. How many bolts would it take to fasten the iron stem band of the Richmond?

A. It is according to the whole that would be in it. If you wanted to put the stem band on well and stationary so as to fit, you would put in a bolt every foot or eighteen inches. It is all owing to the man that is doing the job.

Q. Do you take off this stem to do that work?

A. I don't know.

Q. Could you do the work without taking the stem off?

A. You would have to take the stem band off first; that is, if you did not go below the scarf.

332 Q. If that stem band had to come off and be taken to the shop to straighten it, according to the survey, would it not cost considerable to do it? A stem started five or six inches to one side, would it not have to be taken off and straightened, according to the survey?

A. Yes, sir.

Q. Now, it is not a very small job to take off a stem band weighing 2,500 or 3,000 pounds.

A. Well, I often took it off and straightened it, but you can do it where it is if it has to be taken off.

Q. That survey say' it was knocked over five or six inches.

A. It does not say anything about ; it says the stem.

Q. But the stem band must be there when he speaks of the stem?

A. I am testifying just to what he says.

Q. Read the surveyor's report as to the stem being knocked over five or six inches.

(Witness reads.)

Q. Now would not that cause the stem band to be taken off and straightened?

A. I have seen it in boats where the wood was started and the stem band put back without taking it off altogether.

Q. As to that report what is your idea—was not the stem band taken off?

333 A. It says the stem shoved over five or six inches, but it does not say anything about the band at all; but if the band was crippled up, it would have to go to the forge.

Q. You say six feet of the stem was taken out?

A. Yes, sir.

Q. How is that stem bolted, in which way, and with what kind of spikes?

A. Inch iron, seven-eighth iron.

Q. They would all be cut and destroyed taking off?

A. Yes, sir.

Q. When you put it back, would you have to put it back with bolts again?

A. Yes, sir.

Q. Did you make any calculation for the iron for this work?

A. Yes, sir; when I said $300 I put in iron, materials, and everything, as a rough thing.

Q. You put down there that the oak stem put into that boat was five cents a foot?

A. Yes, sir.

Q. Would you swear positively that you could furnish a piece of oak to go into the stem of the Richmond at five cents a foot?

A. Yes, sir; I often got it for less, and bigger pieces than that.

Q. Don't you know that they generally charge twenty cents

334 a foot for oak lumber big enough for the stem of these large steamboats?

A. It does not matter how big it is; you have to pay as much for the small as the large; it is owing to how much you can buy. You could get lumber brought here at that time for that. I am giving my own estimation of it.

Q. Do you mean to say that oak lumber for stem can be got for five cents a foot?

A. It was only straight pieces of timber that I figured on.

Q. Would that stem be straight?

A. On the top it is.

Q. But I am speaking of the stem itself?

A. I do not figure on the stern.

Q. What are you figuring on?

A. I am figuring on the survey, not on the stem of the Richmond.

Q. What is the price per inch for oak knees in this market?

A. A dollar an inch.

Q. And sometimes sells as high as three dollars an inch?

A. I can get them cheaper than that; that is, if they are short.

Q. How many inches would there be in a knee five feet long?

A. It makes no difference if they are twenty feet long. It does not matter how long the arm or the foot is.

Q. How much would a stack knee cost?

335 A. I figured on the whole stack knee at six or seven dollars for each knee, three knees.

Q. About how much iron would be used in a work of that kind; a piece of timber six feet long and fourteen inches through, twelve inches on the face, and eight inches on the face of the stem? How much iron would it take to bolt that to the bow of a boat like the Richmond? I am talking now of the survey.

A. Some pieces may be five or six feet long, and some pieces only three.

Q. But how many pieces would it take?

A. Five or six bolts in that case.

Q. Have you ever put in any bolts?

A. Yes, sir.

Q. And only put in six?

A. Yes, sir.

Q. I am speaking of a boat putting in a six-foot scarf.

A. Yes, sir; six is plenty.

Q. How many carpenters do you say you would work on that job?

A. As near as I can recollect—I don't know what I put down—three men oneday, or somewhere thereabout.

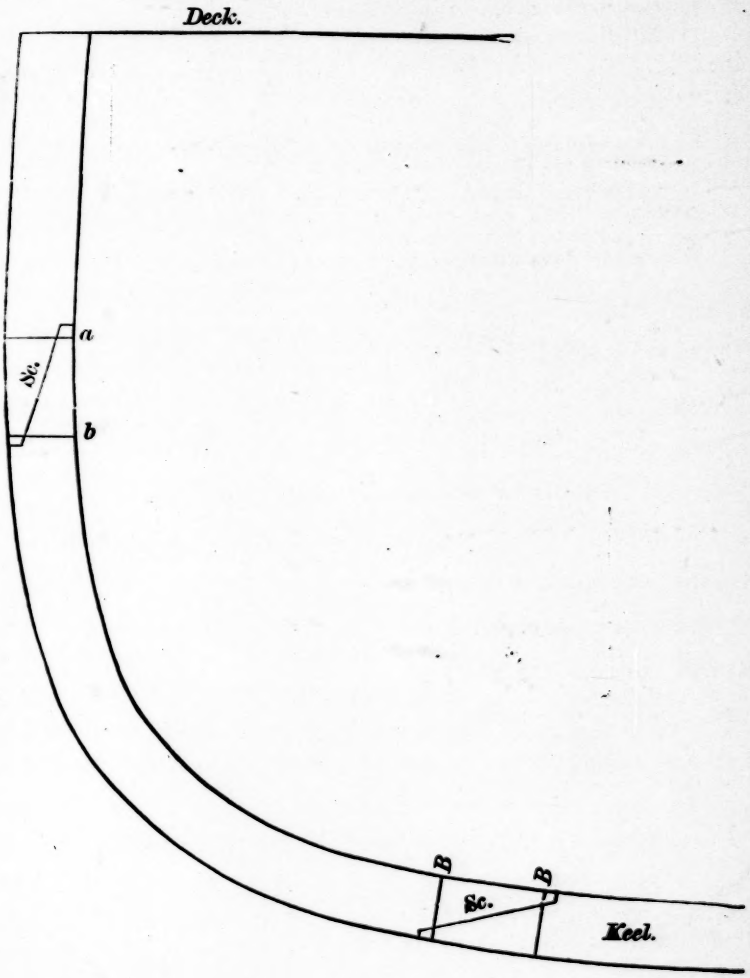
Q. How many days would it take to take the stem off?

A. I would take it off, I and another man, and put it on, in a day. I am not talking about the whole stem.

336 Q. I am speaking about six feet of the stem; how many men would it take to take it off, cut the bolts, and get ready to put it in?

A. I and another laboring man will put it in in a day by ourselves; that is from the time the dock was sunk and the boat pumped out.

Diagram referred to in testimony of I. H. Lynch.



Mr. Egan offers in evidence an extract from R. L. Robertson's report on the appraisement of the steamer Richmond, as follows:

The undersigned having been requested to appraise the value of the steamboat Richmond in the condition she was at the time she returned to this port for repairs after having collided with the steamboat Sabine, and knowing her situation at that time, having then surveyed her and

ordered her repairs, have this day appraised her in her then condition at the sum of $27,500 for contribution in the general average.

New Orleans, March 26, 1872.

(Signed) R. L. ROBERTSON, JR.

Said report being offered under and subject to the objection by the claimants.

	Henry Langford for taking the foregoing deposition.....	38 40
337	J. W. Gurley, two days' attendance.....	6 00
	Forty-four $\frac{40}{100}$ dollars.....	44 40

Paid 1st June, 1875, thus:

$11.10 by N. O. Ins. Association.
" 11.10 " Home Ins. Co.
" 11.10 " Union Ins. Co.
" 11.10 " N. O. Ins. Co.

Attest:

J. W. GURLEY.
H. L.

Testimony for claimants.—Filed June 4th, 1875.

United States circuit court, district of Louisiana. In admiralty.

SARAH C. SHIRLEY & AL. *vs.* ST'R RICHMOND. } No. 9822.

M'CH'TS' MUTUAL INS. CO *vs.* ST'R RICHMOND & SABINE. } No. 9823.

Testimony taken before J. W. Gurley, master, etc., to ascertain amount of damages sustained by the claimants of the steamer Richmond in the above causes, this 19th May, 1875.

Present B. Egan, esq., for libellants; E. C. Billings, esq., for claimants.

Mr. Billings, for claimants, offers in evidence the depositions of Nat. S. Green, Benjamin R. Pegram, John S. Neal, James F. Hicks, and John H. Burk, as taken under a former reference to R. H. Thomson.

338 Mr. Egan, for libellants, objects to the items following, as not being proved by the witness N. S. Green, who testified thereto, as being indefinite, uncertain, etc., and not established by vouchers: Item $1,775, amount of wages; item $1,050, for docking and repairs; the affi avit of J. McHaffey on pages 123 and 124 of the blue book (record) showing only $517 for the whole work. Item $110 for wharfage.

Adjourned to May 27, 1875, at 7 p. m.

NEW ORLEANS, what you [illegible], to ave

Present, Mr. Egan, for libellants; Messrs. Cohen, Singleton, and A. Voorhies, esq'rs, for insurance co's; who withdrew after waiting fifteen minutes for Mr. Billings to arrive.

Present, Mr. Billings, for st'r Richmond.

Capt. JOHN N. BOFFINGER, sworn and examined for the claimant, says:

By Mr. BILLINGS:

Q. You are interested as one of the cross libellants in this case?

A. Yes, sir.

Q. That is, you were a part owner of the st'r Richmond?

A. I owned one-fifth of her.

339 Q. With reference to the damages that were sustained by the Richmond through its collision with the Sabine, how long was the Richmond detained here for repairs?

A. She returned here on Sunday, the morning after, the collision occurring the 11th of February, and she completed her repairs I think on the 20th February.

Q. That would be nine days after her return here after the collision?

A. Yes, sir.

Q. When did the Richmond commence loading for this trip which was interrupted by the collision?

A. All I know is from what our books showed at the time.

Q. What did her books show?

(Objected to.)

A. On the 2d February.

Q. This voyage of the Richmond, the loading of which commenced on the 2d February, was that interrupted, or what became of the voyage?

A. She left here on the night of the 10th Feb'y, Saturday night.

Q. Was that voyage interrupted, or did she go on and complete the voyage?

A. She was interrupted by a collision between her and the Sabine, meeting with damages and returning here for repairs.

340 Q. And her cargo?

A. She reshipped part of it on the James Howard and part on the Commonwealth.

Q. What were the wages of the crew from the 2d of February, when she commenced her loading for this voyage, to the time when her repairs were completed?

A. I don't know that I understand you.

Q. What were the wages of the crew from the time she commenced loading on the 2d of February down to the time when her repairs were completed?

A. I have got the amount of the wages here, but the clerk will show that better than I can. It was between him and Mr. Woods that they were all paid.

Q. What fuel was used by the Richmond while undergoing repairs?

A. We have got all these bills here, and the clerk will explain that better than I can. He was on board the boat.

Q. Was there any steam kept up by the Richmond during the time she was undergoing repairs? If so, state for what purpose.

A. She kept up steam all the time she was undergoing repairs. She had a bow dock under her, and she had to keep up steam so
341 as to be always ready to pump her out in case of any accident to

orde[illegible] repairs, hav[illegible] Part of the stem band was broken off, and [illegible]se any accident occurred to the bow dock, the steam had to be kept up in order to pump her out in case any such accident occurred.

Q. At what expense per day?

A. The amount that was put in for fuel, which was put in at $500, I thought was very low; $700 was the original price put in, but $500 was what the captain made out.

Q. How much per day for keeping up steam to prevent her from sinking in case of accident, what would be an estimate?

A. $100 per day would be very fair. I estimate the coal at eighty-five cents a bushel, for nine days. She would burn very near five hundred boxes per day under headway, but of course she would not burn that much lying up.

Q. What was the coal worth?

A. Eighty-five cents.

Q. She had fire up to guard against accidents?

A. Yes, sir. Well, a little over one hundred boxes per day would keep her fire up while undergoing repairs.

342 Q. How with reference to the bow dock and repairs; what were these?

A. I have the bills for them.

Q. What do you know about the wharfage?

A. I have got that certificate from the city. The clerk knows whether it was paid or not.

Q. What about the consumption of stores?

A. There is an estimate made there (in record) which I thought was very low ($600) to feed the hands that were on her. $800 was the original price, and I thought that was a very low estimate.

Q. But besides the stores that were eaten up by these men that had to be kept, was there any loss any other way?

A. Well, ice, etc., was taken on board of her, while she was here, sufficient to run her to St. Louis, and of course that was all gone. Vegetables and every thing of that kind would naturally be all lost while waiting here.

Q. Then there was perishing as well as eating?

A. Perishing that way. We had three meals a day right straight on for ten days, which would take a great deal of provisions. She
343 would have went to St. Louis with the provisions that were consumed on her during that time in about six days and a half.

Q. Now the loss on the freight list; was the Richmond loaded at the time of this collision?

A. She had, I think, about seven or eight hundred tons of freight. I don't know the exact amount, but it was in that neighborhood.

Q. But was she loaded at that time?

A. Loaded for the trip.

Q. Did you lose that freight?

A. Yes, sir. It was reshipped on the James Howard and the Commonwealth, and we lost it.

Q. There were passengers on board of her?

A. I judge the clerk refunded them their money. It was lost. There was no profit in it to us, for we lost it. Whatever was on the freight and passenger list was lost.

Q. Because you had to give it over to another boat when you got back here?

A. Yes, sir.

Q. Do you know anything about the terms upon which you gave the

freight over to the other boat, as compared with what you would have received?

344 A. I know nothing about it, but I know there was no benefit to the Richmond by it. The clerk and the captain reshipped the cargo.

Q. How long have you been familiar with the business of carrying freight and passengers on the Mississippi River?

A. Since 1848. I then commenced in the St. Louis and New Orleans trade.

Q. That is, the boat was plying between St. Louis and New Orleans?

A. Yes, sir.

Q. What was the Richmond making at this period of the year in her round trip at that very season?

A. Her receipts down here and back during the months of January, February, March, and April should have run, at the rates they were getting at that time, somewheres in the neighborhood of from $16,000 to $20,000.

Q. That is for the round trip?

A. Yes, sir; down and back; twenty-one or twenty-two days being the round trip from St. Louis to New Orleans and back.

Q. What would be her freight?

A. That would depend altogether on how much she had on her.

Q. At that season of the year what was she making?

A. You mean what the boat would naturally make out of a season of that kind?

A. Yes.

345 A. Her expenses run up about ten or twelve thousand dollars. The expenses of a steamer always go up with the receipts, and they come down as the receipts lessen. So in a trip of $20,000, it would cost her from $12,000 to $13,000, and in a trip of $16,000 it would bring her expenses down to $10,000. The more freight she has the more labor she must have and the more it will cost to handle. That was a very good time of the year for all boats in the business. When this accident occurred other boats that I was interested in, such as the Bismark, was making from $5,000 to $7,000 a trip clear.

(Mr. Egan objects to any evidence about the Bismarck, as it is an entirely different boat from the Richmond, and when an attempt was made to bond the Richmond under the libel, it was shown that she was worth very little.)

Q. This freight that the Richmond was transporting from here to St. Louis and back; was she making more going up or making more coming down the river?

A. Her receipts down stream were more than those up stream.

346 Q. State the proportion; how much was she making going up?

A. Down stream she was making somewhere from $12,000 to $14,000. Take for instance a boat of two thousand tons capacity taking freight at thirty-five cents a hundred; two thousand tons at that rate would be about $14,000. That is just dead freight alone, saying nothing about the passenger receipts; so thirty-five cents a hundred, the rate as it was at that time up stream, her receipts must have run in the neighborhood of $14,000 coming down.

Q. And going up what?

A. Freight at that time on sugar here was thirty-five cents a hundred.

Q. What was her freight going up?

A. She had fourteen hundred boxes of sugar that she took on at the

elevator at thirty-five cents from Chaffraix & Agar. That was but a portion of her cargo shipped by one house on this trip.

Q. Was her freight obtained entirely at New Orleans, or did she have a way freight?

A. She took on fourteen hundred boxes at the elevator.

Q. But had she a way freight after she left New Orleans?

347 A. Yes, sir; they generally take up from $1,500 to $2,000 in the way business. When there is no business, that is, what we call picking up on the way. All boats running now take up that much between here and St. Louis.

Q. From your knowledge of what the Richmond was making at this time as made up of these items, what was the loss in time to the owners of the Richmond while the boat was repairing? I do not speak of the freight and passenger list.

A. You mean the value of the boat per day?

Q. Yes.

Ans. Somewhere between $350 and $500 a day. It depends a great deal upon the season, but she was worth from $350 to $500 a day at that season of the year.

Q. And would be worth that during the time that this controversy existed?

(Objected to as leading.)

A. There is no doubt about it, because all boats at that time were making money. Being interested in steamboats as I am, at that time being interested in seven or eight in that trade, I judge pretty much by what the other boats were doing.

By Mr. GURLEY:

What was the number of the crew on the Richmond at that time?

348 A. I can only give you my judgment as a boatman what the number ought to be. I was not captain at that time, but I can tell you what she ought to have carried, and what all boats of that class do carry.

Q. What length of time was consumed on a voyage from here to St. Louis?

A. She would go with a business trip up there in from six and a half to seven days; with a big cargo, seven days.

Q. She would make the round trip in what time?

A. At that time of the year making full trips or cargoes both ways she *she* would make it in from twenty to twenty-two days, but take her later in the spring, say, in the month of June, she would make it in from ten to fifteen days, not being so heavily loaded.

By Mr. BILLINGS:

What has become of the books of the Richmond which showed her passenger and freight list at that time?

A. When this accident occurred the boat belonged to Stillwell, Powell & Co., Capt. N. S. Green, Theo. Lavielle, Carter and Conn, and myself. Shortly after this accident occurred the boat was incor-

349 porated into a stock company, and a new set of books placed on board. The old books were then taken to Stillwell, Powell & Co.'s office. They went into bankruptcy soon after that, and all the old books of the different boats that had been sunk, destroyed, and so on were sold by Stillwell, Powell & Co. to a junk man. I think the Richmond's books went there, but they cannot be found any way. I have been try

ing to find them, and the clerk of the boat also since he went to St. Louis.

Cross examined:

Q. When did the boat go into the joint stock company?

A. I think in July, the year after this accident. I am under that impression, but I am not positive.

Q. Was the ownership then changed?

A. The boat was sold to the Richmond Transportation Company, and the owners of the boat received stock in that company.

Q. Was there any change of ownership in the boat?

A. From the time she went into the transportation company?

Q. Yes.

A. No, sir; I don't think there was any change until she was sold out entirely and torn up.

350 Q. How was this company formed?

A. Under the State law.

Q. How was it formed?

A. By a president, secretary, and directors.

Q. Who forms a new company?

A. The directors of it.

Q. Who were the stockholders?

A. Carter & Conn, Lavielle, Stillwell, Powell & Co., and myself. Carter & Conn bought out Captain Green's interest.

Q. Then there were no different persons owning the boat other than those who had interests in her at the time of the collision?

A. One less; the captain sold out.

Q. But there was no addition made to them?

A. No, sir; all of our St. Louis boats are in the transportation company. There are none of them but are running for that company.

Q. Whom did you say got the books of the Richmond?

A. Stillwell, Powell & Co.

Q. Why were they taken to their office?

A. They were the financial agents of all the boats they were interested in.

Q. Was that company interested in more boats than one?

A. Stillwell, Powell & Co.?

Q. I am speaking of this Richmond Transportation Co.

A. No, sir.

Q. Then why were the books of the Richmond taken to Stillwell, Powell & Co.?

A. Because they were the financial agents of the owners of the Richmond.

351 Q. When did you last inquire of Stillwell, Powell & Co. for the books of the Richmond?

A. I did not inquire at all; I telegraphed to St. Louis and found that the books could not be found, and I am satisfied from what Capt. McCord told me——

Q. Then you don't know of your own knowledge that any search was made for them?

A. Yes, sir; I telegraphed to St. Louis and got a telegraph answer.

Q. Whom did you telegraph to?

A. Mr. Lavielle.

Q. What did he reply to you?

A. That he could not find the books. (Telegram produced by witness.) "Richmond's books cannot be found." That was on the 22d.

On the 21st I first telegraphed to him, telling him to go to Mr. Powell, of Stillwell, Powell & Co., and he told him the Richmond's books could not be found; I then telegraphed him to see Mr. McCord, and he answered that on the 22, stating that McCord left on the Glencoe; that he hunted over my office and had seen Dave Campbell, but that the books could not be found; Mr. Campbell is a man in St. Louis who buys steamboats and wrecks them; the books were taken to Stillwell,
352 Powell & Co.'s office when the Richmond was turned over to the transportation company.

Q. Why did you telegraph to Campbell about them?

A. I did not.

Q. Why did you telegraph anybody to go and see Campbell?

A. I did not; telegraphed to Mr. Lavielle, one of the owners of the boat.

Q. Who is this Campbell that is mentioned?

A. He is a man in St. Louis who buys old steamboats & wrecks them.

Q. How could he have anything to do with the books?

A. Because he bought the boat at marshal's sale, I believe, and Mr. Lavielle thought as he had bought the boat he might have the books there.

Q. How much did he pay for her at marshal's sale?

A. I don't remember the exact amount; may be $10,000; I don't remember, but it was about that.

Q. When did he buy her?

A. I think it was about a year ago she was sold; I am not positive about it, but I think it was that; it might have been last fall a year ago or it was not; she was sold by the marshal of St. Louis.

Q. What was she sold for?

(Mr. Billings objects.)

A. She was sold for debt.

353 Q. What was the extent of her liabilities at that time?

A. She paid out; she did not owe anybody.

Q. What was the amount of her liabilities?

A. I don't know, but I think she paid out; I don't think she owes anybody anything except the owners.

Q. Did she pay fifty cents on the dollar?

A. I believe she paid out; I told you I don't know.

Q. Don't you know that she has not paid out?

(Objected to.)

A. As a fact, I think she did pay out; I mean that when I say it.

Q. Do you know the Cairo City Coal Company?

A. I suppose there is such a concern, but I don't know them. Whose concern is it?

Q. I don't know whose concern it is; it is the Cairo City Coal Co.

A. Well, I have been in Cairo, but I don't know them. If you tell me the men's names perhaps I could tell you.

Q. I believe there is a man by the name of Holliday in it.

A. I know him very well.

Q. Was he paid in full?

A. The marshal had the money, and I judge they were all paid in full; that is my impression; I think the boat paid out; I don't
354 think she owes anything at all, that I know anything about.

Q. Is that merely your thought, or do you give that as positive evidence?

A. Well, now, Mr. Egan, I am able to pay all my debts, and if I owed

them anything I think they would come after me; my impression is that she paid all her debts.

Q. When did she arrive in the port of New Orleans on the voyage she left on, about the 10th of February?

A. Somewhere about the first; I don't know, but I think it was that time, the first or second.

Q. Have you got any date to show you when she arrived?

A. I have the proof here; the record will show that; I think so.

Q. Was she in the habit of lying ten days at the wharf?

A. In the winter season they generally lie here six or seven days, very often ten days.

Q. From the first to the tenth, that would make ten days by my calculation.

The record will show, sometimes they lie longer here than at others.

Q. When she started on that voyage what freight did she have?

355 A. I don't know what freight she had on board, except this fourteen hundred boxes of sugar; she had a great deal of stuff and was drawing very heavy, but I could not enumerate it.

Q. How much water was she drawing?

A. About six feet, I think.

Q. Did you examine her mark to see how much she was drawing?

A. No, sir; I did not. I only judge from her appearance.

Q. What was the mark of light water?

A. I think, perhaps, she drew three and a half feet forward and four feet at the stern. She was a light boat, big as she was.

Q. What was her hull tonnage?

A. You mean measurement?

Q. I mean the hull tonnage measurement.

A. I don't know.

Q. Was it one thousand tons?

A. I think it was over a thousand. I am under the impression that it was between nine hundred and a thousand. The record will show that. The measurement I don't remember.

Q. What was her total draught of water when loaded?

A. I think if she was loaded, about thirteen feet forward—between twelve and thirteen feet.

356 Q. And what aft?

A. I should think she would be drawing, perhaps, seven and a half feet or eight feet at the stern.

Q. How many hundred tons would it take to bring her down eight feet from light?

A. Well, figures would tell you that.

Q. Just give me them.

A. About three feet when she was light?

Q. Yes.

A. Well, I should judge she would carry one thousand tons on three feet.

Q. I ask you can you give me this answer as a question of fact, or as an opinion?

A. Well, I give it as an opinion.

Q. I don't want an opinion.

A. That is all I can give you.

Q. You are here as a witness under oath and not as an expert.

A. I never saw this stuff weighed on board or saw it weighed off.

Q. But I want to know what you know, not what you believe.

A. With seven feet of water she would have on one thousand tons of

freight; if she was drawing four feet of water and you loaded on one thousand tons of freight, she would then draw seven feet. The
357 clerk will tell you that better than I can, because he was oftener on her.

Q. Were you ever master of the Richmond?

A. No, sir.

Q. Were you ever employed on her in any capacity?

A. No, sir.

Q. Were you ever master of any boat?

A. Yes, sir; and I made two hundred and twenty-six trips from St. Louis to New Orleans and back, more than any man living to-day ever made.

Q. Who was employed to repair the injury the Richmond sustained by the collision?

A. I don't know but Mr. McHaffey was one of the parties.

Q. Was he employed to repair the injury under contract?

A. That I don't know anything about.

Q. Have you not had McHaffey as a witness in this case on behalf of the Richmond?

A. Yes, sir.

Q. Have you not heard him state that he repaired the injury sustained by the Richmond, and was paid $517 for it?

A. Yes, sir; and further than that, he said it cost $600 more to repair the balance of it. The evidence is there if you read it.

Q. Was there not another man on the Richmond who stated
358 that she was taken down at the bow, and that he was directed by the mate not to put on any heavy freight there?

A. I don't know what any man said; the record shows that; but all large boats like the Richmond never carry any freight at the head. If I was master of her, I would not expect to put heavy freight on the head.

Q. Did you not hear a witness state that he was directed by the mate of the boat not to put any heavy freight forward, because the Richmond was broken down at the bow?

A. No, sir; I don't remember that. I read the evidence, but still that may be there. I don't know.

Q. Do you remember a man by the name of Patrick Kane, employed on the Richmond?

A. No, sir; I don't know him now; what was he doing?

Q. He was a deck hand.

A. I don't remember him.

Q. When did the Richmond return from the trip that she was bound on to St. Louis after the collision?

A. She came here Sunday.

Q. What day was that?

A. The 11th February, 1872.

359 Q. How long after she got to the wharf was it before the marshal seized her?

A. I don't know exactly. I think the marshal took possession of her on the Saturday following; I am not certain; the record will show that.

Q. Did you not pay off the crew of the Richmond previous to the marshal taking possession of her?

A. The clerk will state that; I don't know.

Q. Were you not present in Given Campbell's office in New Orleans, 61 Camp street, when the crew of the Richmond were paid off?

A. No, sir.

Q. You say the freight of the Richmond was transferred to the steamers James Howard and Commonwealth?

A. Yes, sir.

Q. How much did the James Howard give you for this freight?

A. Nothing.

Q. How much did they give the owners of the Richmond for this freight?

A. Nothing.

Q. How much did they allow the owners of the Richmond?

A. Nothing that I ever heard of.

Q. Did either of the boats ever allow them anything?

360 A. Not a cent. The Commonwealth was to get five cents more than the Richmond was for carrying it. The Richmond had to pay that much more; that was the understanding.

Q. Did the Richmond pay the owners of the Commonwealth five cents more for carrying the freight than she got herself?

A. They agreed to pay it, but the Commonwealth has never collected it. Freights went up here at the time, and that was the cause of it.

Q. What were the freights the Richmond was getting on that trip?

A. Sugar was thirty-five cents. I don't know about the other freights. The clerk here will tell you that.

Q. When the Richmond loaded on the subsequent occasion, after being released on bond, how much did she get for the freight that she got?

A. The trip after she came out?

Q. Yes, sir.

A. I don't remember. She did not begin to get such prices as that, I know. That was away in March, and freights had fallen about that time.

Q. Was not the Richmond released from seizure because freights
361 had increased in a most extraordinary manner?

A. No, sir; not at all; freights fell off and business fell off entirely. There was no business for her after she was released. I don't think she made a dollar through freight after that.

Q. Did they not first resolve not to bond the Richmond in this case; was not that the first determination?

A. I don't know that there was any determination about it at all. We tried to bond the boat.

Q. When the Richmond was bonded in this case, under the libel, did she not show the court that she was worth about $25,000 on the outside, and some of the witnesses put her value at less?

A. I think that is all in the record. I don't know anything about it. Mr. Heartt made the appraisement, and it is in the records of the court. I don't know anything about it now. You (Mr. Egan) got some parties to go and appraise her, and we would like to sell her out for half of what you appraised her at.

Q. Were you not present when the application was made to bond the vessel, when witnesses were introduced on behalf of the owners
362 of the Richmond to show that she was not worth than $25,000 at the outside?

A. I was not present.

Q. Were you present on any occasion when attempts were made to bond the Richmond?

A. I was not. In court you mean?

Q. In or out of court?

A. Well, I don't know of any being made outside. They were made in court before Judge Durell, by my attorneys.

Q. What was the value of the boat at the time it was bonded after the seizure?

A. If you will let me look at the records I will find it. I don't remember.

Q. What was your estimate of the value of the Richmond at the time this bond was given?

A. I think I put her valuation at $25,000; I am not certain but I would sell out very quick at that figures; finally she was sold for $10,000. The value of a steamboat consists in what you can make by it. In a good season of course the value of a boat goes up, but when she came out of the marshal's hands the busy season had passed, and she was not worth much. At this time you can buy boats for a mere song,
363 and it is always so when there is no business. It is according to supply and demand.

Q. What was the amount of coal she would use in twenty-four hours?

A. She would use going up stream, as they generally run her, from four hundred and fifty to five hundred boxes, containing two and a half bushels to the box.

Q. How many boilers did she have?

A. She had six boilers of large diameter—low pressure boilers.

Q. When you say that steam was kept up while the bow dock was under her while undergoing repairs, where was it kept up?

A. Kept up on the deck boilers.

Q. Were those the boilers that worked the engine by which the boat was propelled?

A. Yes, sir.

Q. Did you keep up steam on these boilers?

A. Yes sir, I think until the time the dock was taken out, and I think they kept up steam on the nigger boiler.

Q. Did you see them keep up steam on the boilers?

A. They had it on when I went there. I went there the day after she got down here and I went there several times.

Q. When was the bow dock put under her?

364 A. I think on Monday or Tuesday when she came back. She came back on Sunday.

Q. How long was it detained under her?

A. I was on her the Sunday week following, and it was under her then.

Q. In whose hands was she then?

A. I think in the marshal's hands, if I am not mistaken.

Q. In whose hands was it on the week following?

A. I think the marshal's.

Q. Do you state positively as a fact that the bow dock was under the vessel all the time she was undergoing repairs, or is it merely your impression or thought?

A. I am not positive whether it was under her Monday or Tuesday, but I was there then, and it was under her the Sunday following, a week after she came in.

Q. How long was she undergoing repairs—the repairs made by McHaffey?

A. I am positive that they were at work on her the Sunday following. The Sabine was lying right under the Richmond, and the Richmond right above it. They were there together.

Q. Had the Richmond any crew on her while in the marshal's charge?

365 A. They were paid off after the marshal seized her; then they kept a watchman on her during the time the marshal had her. We kept a watchman on her all the time.

Q. Had she any other crew?

A. Not after she went across the river.

Q. Where did the marshal keep her?

A. She was on this side of the river until the repairs were finished, and after everything was cleared up they took her over to Algiers, below Canal street ferry, at Slaughter-house Point.

Q. How many passengers had the Richmond on her at the time of the collision?

A. I don't know.

Q. How much was the passage from here to St. Louis?

A. I don't know.

Q. How much would it have cost the Richmond to perform the voyage from New Orleans to St. Louis?

A. Her expenses were all incurred when she left here except the fuel, by the time she got there, and she did not burn as much coal as might be.

Q. How much would it take to perform the voyage from New Orleans to St. Louis, including everything?

366 A. I judge it would cost her in the neighborhood of $300; somewheres in that neighborhood. The clerk will tell you better than I can. I give you that as an opinion.

Q. Then you don't know how much it would cost the Richmond in fuel, wages, stores, and expenses, to make a voyage from New Orleans to St. Louis?

A. Only by what it would cost per day, $800—that is the whole expense. That would be with the boat fully laden and full of people and full of everything. If she had not much business it would cost a great deal less.

Q. Do you know what quantity of provisions and supplies she had on board at the time of the collision?

A. No, sir.

Q. Do you know what disposition was made of those supplies and provisions?

A. I do not.

Q. Was there an ice gorge in the Mississippi River above Cairo at the time of this collision?

A. No, sir; the gorge had broken before that, before the Grand Duke was here, and he came down in January.

367 Q. Would you state that as a positive fact, that it did let go, or is it your opinion?

A. I state it as an opinion.

Q. Was this freight that the Richmond had on board destined for St. Louis, or for Cairo?

A. The clerk will tell you that.

Q. You don't know that?

A. Only the sugar was destined for St. Louis.

Q. If it had been destined for St. Louis, and there had been a gorge in the river, so that she could not have proceeded on her voyage, would she not be likely to sustain a serious loss?

A. Yes, sir; of course if the water was running over the Rocky Mountains and she ran over with it, she would be in trouble; but the water was running well at that time.

Q. I refer you back to the question again.

A. If she could not get past the gorge, she would have to lie below Cairo until it let go. At that season of the year, it would not last long if there was such a thing.

Q. Would she not have sustained considerable loss and expense in being compelled to lie there for any length of time?

368 A. If she lay there for any length of time, of course it would have been an expense to her; no doubt about that

Q. Do you know what the Richmond's wharfage bills were?

A. For the time she was here it was as stated in the receipt, $115. The bill is here in evidence if you want it. There is the certificate of the time she was at the wharf.

Q. Is this bill included in the estimate of damages that the Richmond sustained by this collision?

A. It is put in as $110, but according to my bill it is $115.

Q. I observe that this bill is dated as paid on the 10th March, 1872, for lay days up to that time, and that the cross libel in which this item occurs was filed on February 19, 1872; how could it then——

A. I suppose they did not have the money to pay it.

Q. How could you, then, charge $110 for twenty-three lay days when, at the time the libel was filed, the twenty-three lay days had not expired?

A. I don't know that but they paid that; I suppose they did not have the money at the time the bill was presented, but they paid that.

369 Q. At the time that the cross-libel was filed, part of that debt had not been contracted; is that the case or not?

A. This bill which I received from the city shows for itself, and who paid it.

Q. How much of that wharfage money did you get back from the city?

A. I did not get any.

Q. Were you interested in the claim on behalf of the steamboat owners against the city of New Orleans for wharfage paid?

A. Yes, sir.

Q. How much did you get of that?

A. I have not got it yet.

Q. Have you not got it yet?

A. No, sir; I hold documents about it, but I did not go to the city hall to see.

Q. What amount of certificates did they give you?

A. Forty-three per cent.; but I don't know whether it was for that time or not.

Q. Did they only return you forty-three per cent. of the amount that you paid?

(Objected to on the ground that counsel is assuming or stating to the witness that he said a certain thing when the witness denied it.)

370 A. They have never returned me anything. They gave me some documents, but I did not go to the city hall to see about them. They are payable in five years. I don't know what year I got them for.

Q. Did they not give you the whole amount of the wharfage you claimed within a given day, or did they make any deduction from your claim?

A. I can tell you what I heard about it.

Q. I want to know what you actually know?

A. I don't know anything about it but what I heard. I will tell you what they told me. Mr. Kirk told me I got forty-three per cent. back,

but I don't know how they settled about it. If you want the whole story I will give it to you.

Q. Was not the balance of the amount that they returned to you paid in expenses of lawyers and others for the recovery of the claim?

A. I judge the lawyers helped themselves to a considerable portion of it. I got forty-three per cent. of it. I don't know where the balance went.

Q. Did not the city give you the whole of the wharfage paid within a given day?

371 A. Mr. Kirk told me there was a judgment of $116,000 belonging to all the boats. I don't know how many others were interested in that money, but it was compromised, and they paid $80,000 in monthly payments for five years. They allowed us forty-three per cent. of that amount, which a broker told me was worth about thirty cents on the dollar. The Richmond, I think, got $700 out of the whole, and when brought down to certificates in that amount it would be nothing.

Q. How much did you agree to give your lawyer out of the amount recovered?

A. I did not make any agreement. The agreement was with Mr. Kirk, who gave him a contingent fee to start the thing of each boat, some eight in number. Mr. Kirk was to have a certain amount, and the lawyer a certain amount, and deducting $30,000, the amount the lawyers got, and Mr. Kirk got, it left forty-three per cent. of the amount.

Q. Did you not give the lawyer, for the recovery of your claim, one-third?

372 A. I had nothing to do with the lawyer. There was a certain amount given to the lawyer; what it was I don't remember, but we got forty-three per cent. out of it.

Q. When did that return wharfage commence; did it not commence as far back as 1872?

A. I am not positive about it; by looking at the records you can tell something about it. I don't know.

Q. Have you got any means of ascertaining that as a fact?

A. All I can give you is my opinion if you want it. I tell you no.

Q. Have you any means of ascertaining it?

A. Yes, sir; if I want to go for the papers.

Q. I ask you for the information necessary to show how much has been returned to you?

(Objected to.)

A. The ordinance will show it. If you've got the Republican here it will show you all about it.

Q. Do you know what quantity of stores were consumed on this voyage?

A. I do not.

Q. Do you know how much coal was taken on board the boat when she started on this voyage?

A. I have the bill here—$680.

Q. Do you know what portion of that coal the boat had on board of her when she left New Orleans?

373 A. No, sir.

Q. What is the usual coal bill taken here for a voyage from New Orleans to St. Louis?

A. They would go out with about one-half the quantity. This bill of $680 is for one-half the quantity. She must have just as much more on board.

Q. Is that the usual size of her coal bill at New Orleans?

A. Yes, sir; she would use double that quantity on the voyage. We took one twelve hundred boxes generally, but she only took on eight hundred boxes then. My recollection of the passenger receipts is about $600, taken from the passenger book.

Q. Do you know how much the passage was?

A. Yes, sir; they generally charge from $25 to $30; that is the usual price.

Q. But you don't know how many passengers she had on board?

A. No, sir.

Q. What could that boat be chartered for at that season of the year?

A. For two or three months I suppose she might have been chartered or at that particular time for from $350 to $500 a day. She was
374 worth that to the owners at that season of the year.

Q. Could she have been chartered for two or three days?

A. At about $1,000 or $1,200 a day, I suppose.

Q. Could she have been chartered for three or four or eight days?

A. I think she could. The Belle Lee got $3,000 for going down to the mouth of the Mississippi River, and the Grand Duke paid the Great Republic $9,000 for bringing him here from St. Louis.

Q. Is that of your own knowledge or from the statements of others?

A. Capt. Hicks told me that in the one case, and Capt. Pegram in the other.

Q. You take that from the testimony taken before Mr. Shannon?

A. No, sir.

Q. Did you read it?

A. Yes, sir.

Q. Did you find it there?

A. Yes, sir; but I did not take it from there. I knew it from what they personally told me. I am not positive, but I think that it is in the testimony.

Q. Is that a frequent occurrence, or is it rare?

A. Charters are rare things. It is when people want a boat for a short time.

375 Q. There are only two instances that you can recollect in your steamboating time?

A. No, sir; I have had steamers chartered month in and month out at $500 a day.

Q. That was during the war?

A. Yes, sir.

Q. They were then higher than ever before?

A. Yes, sir; and more business then than ever before.

Q. But I want to know whether these are the only two instances in which boats were chartered for a few days of your own knowledge; these two that you referred to?

A. No, sir; they charter them almost every day for pic-nics and such things. They charter them sometimes for school societies and Catholic societies. They charter them for a day, and pay $500 or $600 for them.

Q. In the case of the Belle Lee being chartered to take the Congressional committee down to the mouth of the river that you speak of, did they pay the expenses or were the expenses borne by the boat?

A. By the boat.

Q. Do you know what profits it netted the boat?

A. The captain told me, but I don't remember. It was very large.

376 Q. When he gave you the amount of $3,000 for the trip, he had reference to the gross amount given?

A. Yes, sir.

Q. Not deducting the expenses?
A. That much for the use of the boat.
Q. What would be the expenses of the Belle Lee?
A. Her crew and fuel. They did not furnish anything else.
Q. The stores and provisions?
A. No, sir; she only went to the mouth of the river.
Q. What would be the expenses of a boat like the Belle Lee or Richmond, including everything?
A. About $800. I should think so; I am not positive, but I should judge it was that.
Q. But if she carried two hundred persons, as the Belle Lee did on her excursion to the mouth of the river, would they not be much heavier?
A. That all depends upon whether or not you give them something to eat. If they done that it would be about $50 a day. You can feed one hundred persons on a steamboat as cheap as you can sixty. That is my experience.
Q. But if they had two hundred, as I understood they had?
377 A. Well, that would be about the ratio; our boats often have two hundred people.
Q. Was the Richmond a money-making boat?
A. She made money the first year we had her.
Q. Did she ever make it afterwards?
A. No, sir.
Q. Did she lose money?
A. Yes, sir; she lost money the last year.
Q. What was the first year you had her?
A. I am not positive whether it was 1871 or not, but somewhere about that.
Q. Was it not 1870?
A. I am not positive; I cannot state.
Q. Was it not the year that the steamboat fire occurred on the wharf when the Magenta was burned?
A. I don't know. That was the first day of January, 1871, I think. I lost the Thompson Dean at that time.
Q. You bought the Richmond, then, previous to that fire?
A. I don't know that we did; I cannot remember exactly; we did not buy her from Neal; we bought her from the owners; she never was sold by the marshal until we had her sold.

Capt. JOHN F. MCCORD, sworn for the claimant, says:

378 Q. In February, 1872, what was your occupation?
A. I was clerk of the steamboat Richmond.
Q. You were clerk of her at the time of the collision between her and the Sabine?
A. Yes, sir.
Q. What were the wages of the crew paid on the voyage on which this collision occurred from the time when her loading commenced down to the time when the crew was discharged?
A. The wages that I paid at that time I charged up on the books; what I paid out and what was paid out of Mr. Wood's office was something about $2,000; that, I think, was paid by the boat on that trip.
Q. Counting from what time?
A. Counting from the time we got through; from the previous trip until she was seized.
Q. Were the repairs going on at the time she was seized?

A. To the best of my recollection they were; I was not there at the time of the seizure, however, but I think they were.

Q. Have you any vouchers as to the payment of the crew for this time?

A. I have some here. Where I gave the due bills they were paid off at Mr. Wood's office. I here produce the due bills. Part of the
379 crew I paid off when the boat first got back from the scene of the collision; not requiring the whole, I paid off a part of them that night, but the rest were not paid off until the seizure of the boat by the marshal.

Q. How much was represented by what you paid off the first?

A. I think $580 first.

Q. And the vouchers you produce, they represent how much?

A. Well, I have footed them up, and they represent $1,220.

Q. Will you state how you make up that $582?

Q. I make it up by the crew that I know was on the boat at the time. There was one more striker on the boat than we wanted. We carried four, and we paid one of them off, $16.50, and there are only three charged up on the due bill. We uniformly had four. We carried from nine to twelve cabin boys on the boat at the time, and they were paid off, making $43. We always carried three men in the pantry, two of whom we paid off on arrival. One had $20 a month, the other at $18, making for the time due them $5.35 and $4.30. The fourth item
380 is for firemen. We carried eight firemen, six of whom I paid off on arrival, amounting to $27; two deck hands I paid off on arrival, $10 for three days' work, and twenty roustabouts, leaving ten on the boat. We were paying them $40, and their eight days' work amounted to $107.66. The captain's wages was for sixteen days at $300, making $160. We put one watchman on the boat at $100 a month for thirty-three days, while in the hands of the marshal, $110.

Q. This watchman had to be there for the safety of the boat?

A. The captain so regarded it.

Q. And you so regarded it?

A. Well, I did not think it was safe unless somebody was on the boat representing the owners. Another watchman at $90 a month for thirty-three days. I say the same with reference to him. That makes a total of $582.53, and the vouchers are $1,220.84. This statement of the parties not included in the vouchers is made up of my knowledge of the boat's crew in the absence of the books.

Q. Is that your best recollection or not?

A. It is my absolute knowledge of the size of the boat's crew.

Q. And of what was done?

A. Yes, sir.

381 Q. What wages do these wages cover?

A. They cover from the 2d of February until the 16th or 17th, the 17th I believe. For all except these watchmen they cover from the date of the seizure of the boat and after the seizure until the day of release.

Q. Down to the 17th, were her repairs completed at that time?

A. I cannot say about that. All I know about the completion of the repairs is, that the captain told me he could have gone away without being seized if the repairs were done.

Q. When was the seizure?

A. The seizure, I think, was on the 16th or 17th February. I don't remember which day.

Q. The seizure must have interrupted the repairs?

A. Yes, sir.

Q. Now we come to the question of fuel. Were the fires on the engines of the Richmond kept up during the time that her repairs were in progress?

A. They were there the time I was on board the boat, which was very frequently.

Q. How many days did that repairing last?

A. I believe they lasted—we got here on Sunday evening
382 and she was seized on Saturday evening; that would be some six or seven days. It continued up to the time of the seizure at any rate.

Q. Making, according to your best recollection, how many days?

A. Well, if the seizure was on the 16th, I think the boat was undergoing repairs six or seven days.

Q. What fuel was it necessary for the boat to consume during the time of these repairs?

A. I don't know that I could answer the question in that form what was necessary for her to consume.

Q. What was consumed?

A. I simply know that at the time of making up the libel in this case that the fuel question was taken into consideration, and the item that we calculated upon as having been consumed was $700 worth, from the time of her leaving the port until she was seized by the marshal.

Q. Did you take into consideration the first day?

A. Yes, sir; the quantity of coal we had on hand and what was left on the boat remaining. The principal item of that I cannot remember.

Q. And that showed the consumption to be $700 worth?

383 A. Yes, sir; that is my recollection at the time.

Q. Now we come to the repairs, what was paid for these repairs; have you got the vouchers?

A. Part of these vouchers were paid by Mr. Woods and part by me. Mr. Woods paid some after I went off to St. Louis.

Q. Which vouchers were paid by you?

A. I did not pay any of these vouchers here. Mr. Woods paid them.

Q. Do you know McHaffey's handwriting?

A. Yes, sir.

Q. Is that his handwriting to these three bills?

A. Yes, sir; I am very familiar with his handwriting. I see it every two weeks now, very frequently.

Q. Now about the wharfage; how much was paid for that?

A. I only know by the bill here. I know we paid wharfage, but the amount of the bill I don't remember.

Q. What stores were consumed in consequence of this detention?

A. On leaving here our stores amounted to about $800 on our books. The stores that we bought, we after the seizure turned over to the boat stores again some $200 worth of stores.

Q. Making how much that were consumed?

384 A. Making about $600 as well as I can remember.

Q. What would be the daily consumption of a boat of that sort situated as the Richmond was?

A. Situated as she was lying at the wharf?

Q. Yes.

A. The daily consumption while at the wharf of food properly would be more than $20 or $25 a day, but the store bill was made for the trip from here to St. Louis. The ice, fresh vegetables and such things were

all in for the trip, but when we were seized by the marshal they were in such a condition that they could not be used. The vegetables could not be returned into market and the ice was gone. The destruction was caused by the delay.

Q. This $600 worth of stores was consumed partly by eating and part by wasting or perishing?

(Objected to as leading.)

A. There was that much difference in our stores and what we got back into the boat stores.

Q. Now we come to the freight list; she was bound for St. Louis from New Orleans on this trip when the collision occurred?

A. Yes, sir.

385 Q. What was her freight from New Orleans; how much did it amount to?

A. It amounted to $5,200 and odd.

Q. What did her passenger list amount to?

A. It amounted to $615 or $620.

Q. What became of this freight and passenger money?

A. The passenger money I refunded to the passengers on landing here on Sunday evening, and the freight was reshipped, part on the James Howard and part on the Commonwealth.

Q. Was the freight a perfect loss to the Richmond?

A. Yes, sir.

Q. Now the survey and protest?

A. That is $40. I paid that myself.

Q. Now the consumption of oil, rigging, etc.?

A. That was a mere estimate I made myself at the time at $100. There was no way of arriving at these things.

Q. That was your best judgment from all the information you could obtain?

A. Yes, sir.

Q. The time while the boat was undergoing repairs, you estimate that at six or seven days; how much in your opinion was lost—what could the boat have netted at that time per day?

A. The best way I can answer that question is, to make an es-

386 timate of what she would have made if she had continued her trip.

Q. Well, go on to that. She would have made in the first place the freight and passenger list, go on and state the items.

(Objected to as leading.)

A. I think she would have gone to St. Louis with her trip direct, and loaded there at the regular freight rates.

Q. How much would she have made on the trip up?

A. We had a very fine prospect of having a $7,500 trip.

Q. How do you make the balance, from $5,200 when she started from New Orleans?

A. That is what we would have picked up on the way.

Q. Your estimate is gathered from your knowledge of that time and from running on that very boat on this river at that time?

A. Yes, sir.

(Objected to as leading.)

Q. What is the basis of your estimate as to what the boat would have made going on its trip up?

A. Based on the previous trips.

Q. The circumstances attending that trip were known to you perfectly?

A. Yes, sir.
Q. Now, if you got up to St. Louis your estimate would be $7,500; what would your estimate coming down?
387 A. I think she would have come down from St. Louis with a $13,000 trip.
Q. That would make $20,500?
A. Yes, sir.
Q. What would have been her expenses?
A. Her expenses on that trip would have been $12,000.
Q. Which would have left her a net gain of $8,500?
A. Yes, sir.
Q. How many days would it have taken to make that trip?
A. It would have taken twenty days.
Q. That would be $412.50 a day?
(Objected to.)
A. Yes, sir.
Q. What would that give per day, if she earned $8,500 for twenty days?
A. It would give over $400 a day.

Cross-examined:

Q. When were you first employed on the Richmond?
A. During the fall or winter of 1871.
Q Were you interested in the boat?
A. No, sir.
Q. What was your capacity on her?
A. My employment was clerk.
Q. How long after the collision was it before you left?
A. Left her in what way?
Q. Before you quit the st'r Richmond?
A. I was on her for, I think, two trips after that.
388 Q. Did you remain on her all the time, or how long did you remain on her after she returned to the landing from the collision?
A. I stayed here in New Orleans, and was connected with her until after the seizure by the marshal.
Q. Were you connected with her after the seizure by the marshal?
A. I went to St. Louis a few days after the seizure, and did not return to her until she was released.
Q. Did you go to St. Louis on her business?
A. No, sir.
Q. Were you paid wages for the time you were absent from her?
A. No, sir.
Q. When did your wages cease?
A. My wages ceased a few days after the collision, when I had her business closed up in my books.
Q. How much was your wages per month?
A. $250 a month.
Q. When did she arrive in the port of New Orleans from the voyage previous to the collision?
A. I think it was on the first day of February.
Q. How long did she lie here before leaving?
A. She lay here until Saturday, the night before the collision. I think that was about nine or ten days.
389 Q. Is that a long time for her to remain in the port of New Orleans?

A. Yes, sir; it is rather longer than usual.
Q. Was business very dull at the time?
A. No, sir.
Q. Were freights high?
A. Yes, sir.
Q. What were they going at?
A. Freights were going at 35, 40, and 55, according to the quality.
Q. What amount of freight had she?
A. She had between $650 and $700.
Q. What did it consist of?
A. Sugar, molasses, coffee, and merchandize generally.
Q. Who was the shipper of any portion of this freight?
A. I only know of one particular item, that large quantity of Chaffraix & Agar.
Q. How much were they giving you?
A. They gave us one-third of the cargo.
Q. What were they giving you?
A. What rate of freight?
Q. Yes.
A. Thirty-five cents a hundred. That was the lowest class of freight on the boat.
Q. That consisted of sugar and molasses, or sugar alone?
A. Sugar alone.
Q. What was the tonnage of the boat?
390 A. You mean what she would carry, or the registered tonnage?
Q. Her registered tonnage.
A. I don't know positively, but I think it was somewhere between 950 or 960. I cannot state positively about that.
Q. Were her crew paid off after the collision?
A. Part of them were paid off on the Sunday evening after the collision.
Q. What part of them?
A. Some of the men, roustabouts, some of the cabin boys, and some of the cooks and pantrymen.
Q. How many of the men?
A. The officers of the boat were not paid off.
Q. Were all the roustabouts?
A. No, sir; we kept, I think, ten of them.
Q. Have you any memoranda showing that portion of the crew were paid off on Saturday evening following the collision?
A. No, sir; I have no memorandum.
Q. Have you any memorandum to show what portion of the officers were paid off?
A. I have a memorandum showing that none of the officers
391 were paid off. Their certificates, due-bills, or vouchers are there before you. There is one of them, Mr. Jack.
Q. Do these due bills show the date on which the officers were paid off?
A. Yes, sir.
Q. Explain how it is.
A. On the 17th February.
Q. Then, if I understand you aright, each one of these men were paid off on the day the due bill was up to?
A. I presume they were paid off that day, or at least we paid up to that day. I don't know whether they got their money that day or the day after, but that was the time they were paid up to.

Q. When did the repairs commence on the Richmond?

A. They commenced, as well as I can remember, the next morning after we got here.

Q. They commenced, then, on Monday morning?

A. I suppose so; as I was not captain of the boat I did not manage the repairs.

Q. Who made the repairs?

A. This man Mr. McHaffey.

Q. Do you know what the repairs consisted of?

A. Only just by simply walking on board and walking off again. I did not give it my attention.

392 Q. Do you know how long it was undergoing repairs?

A. No, sir; only I know that we wanted to get away as quick as possible. We were lying there with our trips on board. By that I presume the repairs were going on until she was seized.

Q. But you don't know that of your own knowledge?

A. I know they were going on then, but whether they were going on at the time the seizure was made I don't know.

Q. When was that?

A. I think Sunday, the 16th.

Q. Do you know how much McHaffey was paid for repairing the bow of that boat?

A. Only from the bills which were presented and charged up on the books.

Q. Don't you know that he states in his testimony that he was paid $517?

A. No, sir.

Q. What was the wharfage of the Richmond per day?

A. While we were lying there they charged us, as stated in that bill, they charged us five dollars a day. That is all the knowledge I have on that bill.

Q. Did you pay that bill for the wharfage?

393 A. I don't remember whether I paid it or whether Mr. Woods paid it in his office, but my impression is that it was paid.

Q. What was the usual wharfage bill of the Richmond when she came in?

A. I think it was $80 and something, or $90.

Q. How many lay days was she allowed?

A. She was allowed, I think, ten days. That is a matter of ordinance of the city; I think we were allowed ten days to load in.

Q. Do you know whether the wharfage is charged in proportion to the tonnage of the vessel?

A. Yes, sir; unless where boats are lying up at the wharf. Then they charge so much a day. I don't know that it is charged according to size.

Q. Who laid in the stores of the steamer Richmond on this occasion?

A. Her steward.

Q. Where did he buy them?

A. I don't know; he bought them all over town.

Q. Do you know of your own personal knowledge how much he bought?

A. I only know from the bills paid.

Q. How many bills did you pay?

394 A. I stated in my evidence that I paid $800.

Q. Whom did you pay that money to?

A. I cannot tell you. I paid it, I suppose, to fifteen or twenty persons.

Q. What did the stores consist of and the quantity of each?

A. Sugar, coffee, etc., but I cannot tell you what quantity; bacon, pork, beef, flour, ice, butter, cheese, etc., almost everything for a steamboat.

Q. Where were the stores got?

A. In New Orleans.

Q. Do you know at whose house?

A. No, sir; at no one man's house.

Q. Where were the most of the stores got?

A. I presume that most of the stores were got at Kennett & Bell's, dry stores.

Q. Do you know what the amount of the bill was?

A. I do not.

Q. What portion of these stores were used on the trip on which you went out subsequently?

A. None at all. We brought back what we could not use, or did not use, and when the boat was seized we turned them back to the boat store. I think about $200, as well as I can remember.

Q. Have you any data to show what you turned back?

A. No, sir; not without the books.

Q. How many tons of freight did you say the vessel had on her
395 at the time of the seizure?

A. Almost seven hundred tons.

Q. How do you get at that?

A. I got at it from my knowledge of the boat, having been on her for some length of time, and the amount of money that it came to; the receipts.

Q. How do you know the quantity of money it amounted to, from the fact that she never got any receipts from it?

A. Because I had the bills of lading on board, and the rates of freight we were getting.

Q. When did you make the calculation?

A. After we came back to port.

Q. What became of these books?

A. I don't know; you have got Capt. Boffinger's explanation.

Q. How much did they foot up?

A. The freight footed up some $5,200 or more.

Q. What weight did it foot up?

A. I cannot tell you. We do not foot up the total weight of a whole cargo unless we want to look at it.

Q. But it was $5,200?

A. Yes, sir.

Q. How much would it cost to make that voyage?

A. You mean the round trip, or from here to St. Louis?

Q. From here to St. Louis?

A. From here to St. Louis it would cost her about $4,800;
396 that is, taking her on the usual expenses, lifting and getting the cargo on board and getting rid of it.

Q. How much was her daily expenses?

A. About $800 a day. It was a little more at this end of the route and a little less on the other end.

Q. What would be her fuel bill per day?

A. That would be according to the price of coal; at this end of the route it is pretty high, but lower at the other end.

Q. At eighty-five cents a box, what would be the fuel bill for that boat?

A. She burned on some trips five hundred boxes every twenty-four hours.

Q. And how many days or hours would it have taken you to go from here to St. Louis?

A. She would go to St. Louis from here in from six to six and a half days.

Q. At twenty-four hours to the day?

A. Yes, sir; I have known her to go there in six days with five hundred tons of freight.

Q. What was the wages of the crew a day?

A. I don't know that I can state that without going and figuring it up. I can figure it up for you. Part of the crew were paid off and part detained.

Q. You paid the captain at the rate of $300 a month?

397 A. Yes, sir.

Q. Your own wages as clerk was $250?

A. Yes, sir.

Q. The two mates' wages together was $300 a month?

A. Yes, sir.

Q. Your pilot how much?

A. $250 a month apiece—$500 for the two.

Q. Your engineers how much?

A. The first engineer had $150; the second engineer $75. She carried four strikers, $130; and one greaser at the same price, $35. The carpenter had $100; the second mate, Davis, we paid about $75 a month; the steward, $90; and the second clerk, $125; the watchman, $50; that is all the officers. In the cabin crew we carried from nine to twelve, and these were paid from $18 to $30 a month. There was a difference in their wages. We paid $210 for running the cook-house. Then the deck crew, including from thirty-five to forty men, paying them $40 a month. The chambermaids, two of them, one at $25 and the other at $15 a month. We carried four deck hands at $50 a month apiece. That is all. The total would sum from $125 to $150 a day for wages.

398 Q. What other expenses did you have besides wages?

A. There were always numbers of expenses in outfitting the boat to start on the trip which I could not name. In the first place, there was lifting the cargo, which we did by labor, and cost from twenty-five to forty cents a ton. Then we had agencies, advertising, etc. At that time I believe the agencies were either $300 or $500 a month.

Q. How much advertisements?

A. Well, we generally paid them $25 or $40 as an advance. There were numerous other expenses which I cannot now itemize—torch wood, marlings, nails, spikes, etc., which go with the make-up of the boat, and which cannot be enumerated without having data to go by.

Q. What was your provision bill a day?

A. Her provision bill in the running trade was $1,300 a trip. That would be feeding for thirteen or fourteen days.

Q. Then it was about $100 a day?

A. It would run to more than $100 a day while we were really running.

Q. How many passengers did you have on this trip?

399 A. I don't remember exactly, but about thirty.

Q. What was the passage money?

A. These people were distributed along from Baton Rouge up to St. Louis. We had passengers for Baton Rouge and Vicksburg. The passage to Baton Rouge on her was seven dollars and sometimes six dollars.

Q. What was the passage to St. Louis?

A. From $25 to $30. Back in the cabin among the lady folks was $30 and sometimes $35.

Q. How do you form the basis of your statement of the passage money being $600?

A. Why, I added it up on the books at the time, and gave it in this item when I first gave in the statement.

Q. But you cannot say how many passengers there were on board?

A. No, sir.

Q. Did you ship any of your freight on other boats?

A. Yes, sir; we shipped it all on other boats.

Q. What did the other boats give you for it?

A. Nothing that I know of; nothing that ever went on that boat's books. On the contrary, the Commonwealth expected to get five
400 cents more, and claimed it from the Richmond.

Q. Who made the agreement with the other boats to take your freight?

A. The agents.

Q. What agents?

A. The agents of the boat.

Q. Who were they?

A. Boffinger & Pegram.

Q. Were they interested in the Commonwealth?

A. Mr. Boffinger was, but Mr. Pegram was not.

Q. Was any of the freight shipped on the Howard?

A. Yes, sir.

Q. Was Mr. Boffinger interested in the Howard?

A. Not that I know of.

Q. What portion of the freight went on the Howard?

A. The Howard, as well as I can remember, took all the way freight.

Q. And the Commonwealth took all the through freight?

A. Yes, sir.

Q. Do you know whether there was an ice gorge up the river at the time?

A. Only from what I saw in the papers. I was not up there and don't know it of my own knowledge.

Q. But was there not an ice gorge on the 12th of February?

A. There was an ice gorge about Columbus, but not at Cario, I think.

Q. If you had not met the accident of this collision, could you
401 have proceeded on your voyage to St. Louis?

A. Yes, sir.

Q. Would not the ice have impeded you?

A. No, sir; the ice has got a channel round Cairo and boats go through it.

Q. Would not the ice have made the voyage longer and more difficult?

A. I don't know; I don't think it would. I cannot give any evidence upon that point. I could not say for the future.

Q. Did not the freights go up or advance after this collision?

A. Yes, sir.

Q. For about a month following March?

A. Well, they advanced some for a little time but not for a month. I

think they fell off after about a month. I know they fell off when we got loading.

Q. Did they advance shortly after the collision?

A. Five cents a hundred.

Q. Not more than that?

A. No, sir.

Q. Did not the down freights advance nearly a dollar a barrel on flour?

A. If they did I don't know it. I was immediately interested, and it did not rise to my mind.

Q. Don't you know that this advance in freights that we speak of was caused by the stoppage of navigation through the ice?

A. On the contrary, I know that they did not ship at all then.

402 Q. Then freight became plenty when there was no navigation?

A. Yes, sir.

Q. When navigation gets difficult freights accumulate and they cannot ship?

A. Yes, sir; sometimes it does accumulate.

Q. Do you know anything of a survey and protest being made?

A. Yes, sir.

Q. Who paid for that?

A. I paid that.

Q. What was the amount you paid?

A. $40.

Q. What was the object of this survey and protest?

A. It is always customary when a boat meets with an accident to have her protested.

Q. Consumption of oil and rigging; what rigging was consumed?

A. Well, rigging is wasted when it is used.

Q. Well, suppose it is not used, would it be wasted?

A. No, sir.

Q. Would there be less consumption on the rigging when the boa was under seizure or lying up in charge of her officers and crew, than there would be while she was under way?

A. No, sir; when we are lying up her lines are all out and subject to the weather and to be run over by drays.

Q. Then this item of consumption of oil and rigging is a mere estimate?

A. Yes, sir.

Q. Of what injury she sustained in a given time?

A. You could not reduce that down to so much damage done to the rigging in so many pounds by looking at it.

403 Q. Then there is no way of getting at it?

A. No, sir; but it takes a great deal of oil to light up a boat like the Richmond, having sixty or seventy lights every night.

Q. Would she have sixty or seventy lights every night while in the hands of the marshal?

A. No, sir; but she was not in hands of the marshal all the time.

Q. Would she have sixty or seventy lights burning while at the wharf?

A. No, sir; but she would the first night out.

Q. Did you put down this item of $100 for consumption of oil and rigging?

A. Yes, sir.

Q. At whose request did you put it down?

A. Nobody's.

Q. You put it it down yourself?

A. Yes, sir.

Q. Do you know anything of the loss of time while the boat was repairing? If so, state what you base that item on.

A. I did not give any testimony upon the subject of the loss of time. I stated what the trip would be worth taking that as the basis; that her time was worth so much money in that way.

Q. You don't know whether she lost any money while lying up undergoing repairs?

A. I don't know but that she might have been struck by lightning going up the river the next day.

Q. Was she making money?

404 A. Making money every trip while I was on her, even under unfavorable circumstances.

Q. What was her average receipts?

A. Her average receipts at that time were not large, because the river was low and prices very low.

Q. What was her average receipts?

A. I could not tell you because you cannot make any average; the different stages of the river make different receipts.

Q. You say she was making money; how much?

A. She came out from St. Louis and on the first trip I was on her. There was scarcely any water in the river then. It was low all the way down, and under these unfavorable circumstances I think she had $1,500 on that trip.

Q. How long was she on that trip?

A. From the time of her leaving St. Louis until she got back to Cairo, I think, it was sixteen days.

Q. Was she not very light on this trip when the collision occurred, and high out of the water?

A. No, sir; she had about seven hundred tons of freight.

Q. How high did her bow stand out of the water?

A. Her bow would stand out of the water, I expect, six feet.

Q. Had she not altogether a light freight on that trip up?

A. No, sir; she had what we call a very fair freight.

405 Q. Does it not occur as a usual thing that her receipts on the up trip are always light in comparison to the down trip?

A. Yes, sir.

Q. Do not boats always make more on the down trip than on the up trip?

A. We never divided it that way. As a general thing we would have more receipts coming down, but we never close the trip until we get back to St. Louis.

Q. You count your trips to commence at St. Louis and to end at St. Louis?

A. Yes, sir; we were running from St. Louis.

Q. Is it not a general thing among steamboats, particularly at that time of the year, that the up trip of the boat would scarcely cover the expenses, and on the down trip you expect to make money?

A. Well, it takes a very good receipt to pay an up stream expense.

Q. But you expect to make it up on the down trip?

A. Yes, sir.

Q. Do you know whether she could have been chartered for one or two days?

A. I don't know that anybody wanted to charter her.

Q. You could not say what she would be worth for a charter?

A. No, sir; that is all owing to the contract. It is according to

406 the time, the boat, and the people who wanted her, or whether the parties who owned her wanted to let her go. I refused $500 a day for a boat not half her size.

Q. That was during the war?

A. No, sir.

Q. Then it was under peculiar circumstances?

A. Yes, sir; somebody wanted her.

Q. Does it not sometimes occur that a small boat is more valuable than a large one?

A. I have known of such cases.

Q. When a large boat would lose money a small boat would make it?

A. Yes, sir; in the river large boats often trade.

Re-examined:

Q. When did the good season commence for the Richmond and when did it end on these trips?

A. The good seasons commenced when we got this trip in, and it ended before we got the next trip in, because we came down with railroad iron at four dollars and a half a ton.

Q. It lasted long enough for this boat to make her round trips?

A. Yes, sir; at the other end the trips remained good for two months.

Q. But these prices continued during the time that this boat could could have made her round trip?

A. Yes, sir.

Q. You said in reply to Mr. Egan, of a trip of the Richmond where she made a $1,500 trip; was not that in the fall?

407 A. Yes, sir; and in low water.

Q. Not in the season when the collision occurred?

A. No, sir.

Q. Do you know that paper? In whose handwriting is it?

A. In Mr. Conger's, the man who succeeded me on the boat.

Q. Do you know whether these items were taken from the books of the boat?

A. Not of my own knowledge. I feel certain that they were taken from the books, but I don't know it.

Q. About the proportion of expenses. You stated in reply to Mr. Egan that it would have cost so much to have made this trip up the river; now, what expenses had already been incurred at the time of this collision?

A. At the time of this collision our stores were all in, the freight all in, and the expenses of the crew, who were under wages for a week in gathering up the trip.

Q. So that the whole proportion of the expenses was made for this trip at that time?

A. There remained nothing more to be added to the cost of the trip but a little wharfage up, six days' wages, and the fuel. The boat would have burnt more fuel going up than if she was lying still. The
408 additional cost of fuel to take her to St. Louis would have been perhaps $1,400 in addition to what we had already on board; that is, buying cheaper fuel after we got up the river.

Q. You stated that Boffinger & Pegram reshipped the freight; was it not Capt. Green reshipped it?

A. Yes, sir; I think it was Capt. Green reshipped it.

By Mr. EGAN:

Q. Did you get higher freight when you left on the second time after the repairs, than you did on the first?

A. No, sir; lower; we had a load of railroad iron for less.

Q. But did you not get more tonnage?

A. No, sir; we never wanted any more than seven or eight hundred tons to go up stream. We do not usually want to take more than that. I don't think we did ever take more than that.

Q. Whom did you get this railroad iron from?

A. I don't know. I don't know who shipped it. The railroad iron was in the boat when I got here from St. Louis.

Q. In addition to the other expenses that you have enumerated you would have had wharfage at several places up the river?

A. Yes, sir.

Q. Amounting to how much?

A. Perhaps $100.

409 Q. Then you would have had some little stores?

A. Yes, sir; perhaps we would have bought a little ice, vegetables, &c., amounting perhaps to $100.

Adjourned to Saturday, May 29th, 1875, at 11 p. m.

Henry Langford, stenographer, for taking foregoing depositions. $46 50
J. W. Gurley, com'r, for 2 days' attendance 6 00

Fifty-two $\frac{50}{100}$ dollars $52 50

Paid by Capt. Boffinger for claim'ts 1 June, 1875.

J. W. GURLEY,
Comm'r.

Received, New Orleans, Feb'y 21st, 1872, from A. A. Woods, two hundred dollars on a/c dock bill st'r Richmond.
200$. JESS. McHAFFIE.

Received, New Orleans, La., February 23d, 1872, of A. A. Woods, esq., the sum of three hundred seventeen dollars in full for dock & carpenter bill on st'r Richmond.
$317.00. JESS. McHAFFIE.

Received, New Orleans, La., March 25th, 1872, from steamer Richmond, per Capt. Green, five hundred and thirty-three dollars, balance due for repairs on st'r Richmond.

JESSE McHAFFIE.

(Endorsed:) 7057. Sabine & Richmond repairs. Produced by Capt. McCord for cl'm't of Richmond 27th May, 1875. J. W. G.

410 *Steamer Richmond & owners to Cooper & Robertson.*

For survey & report of damage to said boat by collision with st'r Sabine, date 15th Feb'ry, 1872..... $20 00
For appraisement of said boat, dated March 26th, 1872..... $20 00

$40 00

Which amount has been paid as per books of our office.
New Orleans, May 24th, 1875.

R. L. ROBERTSON.

(Endorsed:) 7057. Sabine & Richmond survey. Produced by Capt. McCord for claim't of Richmond 27 May, 1875. J. W. G.

Due John Jack, carpenter, wages from Feb'y 2d to 17th, 16 days, at $100 p'r m..... $53 33

J. McCORD,
Clk Richmond.

(Endorsed:) John V. Jack.

Due Henry Lentz, wages, Feb'y 2d to 17th, @ 90$; 16 days @ 90$..... $48 00

Due $48.

J. McCORD,
Clk Richmond.

Henry Lentz, stuard.

(Endorsed:) Henry S. Lentz, stuard.

Due Jas. Farley, wages from Feb'y 3 to 16, 15 days, @ 50$ p'r mo., $25, less paid 60 c.; due..... $24 40

J. McCORD,
Clk Richmond.

(Endorsed:) Jas. Farley.

411 Due Jo. Taylor, wages from Feb'y 14th to 16th, 3 days, @ 35$ p'r mo..... $3 50

J. McCORD,
Clk Richmond.

(Endorsed.) Jo. Taylor, his + mark. Witness: Given Campbell.

Due Geo. Thomas, wages from Feb'y 2d to 17th, 16 days, @ 40$. $21 33

J. McCORD,
Clk Richmond.

(Endorsed:) Geo. Thomas, his + mark.

Due Henry Wright, wages Feb'y 13th to 16th, 4 days, @ $35 p'r mo..... $4 67

J. McCORD,
Clk Richmond.

(Endorsed:) Henry Wright, his + mark.

Due Eph. Johnson, wages Feb'y 13th to 16th, four days, @ 35$.. $4 67

J. McCORD,
Clk Richmond.

(Endorsed:) E. Johnson, his + mark.

Due Peter Silvers, wages from Feb'y 13th to 16th, four days, @ 35$ p'r mo..... $4 67

J. McCORD,
Clk Richmond.

(Endorsed:) P. Silvers.

412 Due Tom Jennings, wages from Feb'y 8th to 16th, nine days, at $40, twelve dollars.
Feb'y 17th, 1872.

J. McCORD,
Clk Richmond.

(Endorsed:) Tom Jennings, his + mark.

Due Jno. O'Brien, wages from Feb'y 8th to 16th, @ $40 p'r mo., twelve dollars.
Feb'y 17th, 1872.

J. McCORD,
Clk Richmond.

(Endorsed:) John O'Brien.

Due Anthony Walsh, wages from Feb'y 8th to 16th, nine days, at $40 p'r mo., twelve dollars.
$12.
Feb'y 17th, 1872.

J. McCORD,
Clk Richmo d.

(Endorsed:) Anthony Walsh.

Due Ed. Carrigan, wages from Feb'y 8th to 16th, nine days, at 40$ per month, twelve dollars.
$12.
Feb'y 17, '72.

J. McCORD, *Clk.*

(Endorsed;) Ed. Karigan.

Due Odey O'Donnell, wages from Feb'y 8th to 16th, nine days, @ 40$ per mo., twelve dollars.
$12.
Feb'y 17th, '72.

J. McCORD,
Clk Richmond.

(Endorsed:) O. O'Donnell. 12.00.

413 Due Frank Sims, wages from Feb'y 4th to 12th, 9 days, @ 50$ p'r mo..... $15
Fifteen dollars.
Feb'y 17th, '72.

J. McCORD,
Clk Richmond.

(Endorsed:) Frank Sims.

Due Pat. Cummins, wages from Feb'y 3d to 16th, 14 days, @ 50$ p'r mo..... $23 33
dollars.
Feb'y 17.

J. McCORD.
Clk Richmond.

(Endorsed:) Patrick Cummins.

Ben. Ellis, wages from Feb'y 3d to 16th, 14 days, @ 45$ p'r mo..... 21 00
Less paid..... 6

Balance fifteen dollars..... $15 00

J. McCORD.

(Endorsed:) Ben. Ellis.

Due John Trekee, wages Feb'y 10th to 17, '72, 15½ days, @ 35$. $18 17

J. McCORD,
Clk Richmond.

(Endorsed:) John Trekee.

Due Wm. Hughes, wages Feb'y 2d to 17½, 15½ days, @ 30$.... $15 00
Cash paid 5

Bal. due.... 10

J. McCORD,
Clk Richmond.

(Endorsed:) William Hughes.

414 Due R. Summers, wages Feb'y 4th to 9th, 6 days, at $80 p'r mo.... 16 00
Feb'y 10 to ½ 17th, at 160$ p'r mo., 7½ days.... 40 00

$66 00

J. McCORD,
Clerk.

(Endorsed:) Rack Summers, cook.

Due Jim Berry, wages Feb'y 6th to 16th, 11 days, @ 45$.... 16 50
Cash paid 5

Balance due 11 50

J. McCORD,
Clk Richmond.

(Endorsed:) Jam Berry.

Due Henry Seibreicht, wages Feb'y 4th to 9th, @ 60$, 6 days.. 12 00
" 10 17½, " 100, 7½ " .. 25 00

$37 00

J. McCORD,
Clk Richmond.

(Endorsed:) Henry Seibrecht.

Due N. W. Wilson, wages Feb'y 3d to 16th, 15 days, @ 150$... 75 00
Less cash 2

Balance.... 73 00

J. McCORD,
Clerk Richmond.

(Endorsed:) N. W. Wilson.

415 Due N. W. Wilson for wages Feb'y 6th to 16th, 11 days, @ $75.... 27 50

J. McCORD,
Clk Richmond.

(Endorsed:) N. W. Wilson, 2nd engineer.

Due Al. Towson, wages Feb'y 3d to 16th, 14 days, @ 45$ per mo.... 21 00

J. McCORD,
Clk Richmond.

(Endorsed:) Alex. Towson.

Due F. M. Cayton, pilot, wages Feb'y 2d to 16th, 15 days, @ 250$ 125 00
Cash paid 50

$75

J. McCORD,
Clk Richmond.

(Endorsed:) F. M. Cayton.

Due John Mack, wages Feb'y 10th to 16th, 7 days, @ 50$ per mo 11 67
Less paid $1 00
$10.67.

Due $10 67

J. McCORD,
Clk Richmond.

(Endorsed:) John Mack.

Due J. T. McCord, wages, clerk, Feb'y 2d to 17th, 1872, 16 days, @ $250 ..... 133 33

J. T. McCORD,
Clk Richmond.

(Endorsed:) J. T. McCord.

416 Due Cha's Duffy, pilot, wages Feb'y 2d to 16th, 15 days, @ 250$ 125 00
Cash 60 00

$65 00

J. McCORD,
Clk Richmond.

(Endorsed:) Cha's T. Duffy.

Due Tho's Cullom, wages Feb'y 5 to 16th, 11 days, @ 45$ 16 50
Cash 3 00

Balance due 13 50

J. McCORD,
Clk Richmond.

(Endorsed:) T. Collom, striker.

Due E. North, wages Feb'y 6th to 16th, 11 days, @ 45$ 16 50

J. McCORD,
Clerk Richmond.

(Endorsed:) Edwin North.

Due J. S. Tresize, wages Feb'y 6th to 16th, 11 days, @ 45$ 16 50
Cash 8 00

Balance due 8 50

J. T. McCORD,
Clerk Richmond.

(Endorsed:) J. S. Tresize, striker.

417 Due Rob't Court, mate, wages Feb'y 3d to 17th, 15 days, @ $300 ..... 150 00

J. T. McCORD,
Clerk Richmond.

Robert D. Court.

Due John Langlois, wages, 2d clerk, Feb'y 2d to 17th, 16 days, @ 125$ 66 67

J. T. McCORD,
Clk Richmond.

John Langlois.

(Endorsed:) 7057. Sabine & Richmond. Produced by Capt. McCord, for cl'm't of Richmond, 27th May, 1875.—J. W. G.

The Western Union Telegraph Company. Dated St. Louis, 21, 187 ; received at 12.45 p. m. May 21.

To JNO. N. BOFINGER, *N. O.:*

Richmond's books cannot be found.

THEO. LAVEILLE.

5 paid.

(Endorsed:) 7057. Sabine & Richmond. Cl'm't of Richmond offered 27 May, '75.—J. W. G.

The Western Union Telegraph Company. Dated St. Louis, Mo., 22, 1875; received at 7.05; rec'd May 22.

To JNO N. BOFINGER,
St. Charles Hotel, N. O.:

418 McCord left on Glencoe. He and Powell hunted over your office. I went to Dave Campbell's. No books could be found.

THEODORE LAVEILLE.

21 p'd.

(Endorsed:) 7057. Sabine & Richmond. Off'd by cl'm'ts of Richmond 27 May, '75.—J. W. G.

The Western Union Telegraph Company. Dated St. Louis, 22, 1875; received at 11.30 a. m. May 22.

To JNO. N. BOFINGER, *N. O.:*

Richmond books cannot be found.

THEO. LAVEILLE.

5 p'd.

(Endorsed:) 7057. Sabine & Richmond. Cl'm't of Richmond off'd 27 May, '75.—J. W. G.

DEPARTMENT OF PUBLIC ACCOUNTS,
New Orleans, May 24, 1875.

I certify the records of this department show that the steamboat Richmond paid to the city of New Orleans, on March 11th, 1872, the sum of one hundred and fifteen dollars for wharfage, being for twenty-three lay days, at $5.00 per day.

J. G. BROWN,
Administrator.

7057. Sabine & Richmond. Produced by Capt. Boffinger on cross-examination 27th May, '75.—J. W. G.

419 OFFICE OF KENDIG & CO., 37 CARONDELET STREET,
New Orleans, May 25, 1875.

This is to certify that we furnished and put on board the st'r Richmond the following am'ts of coal, at the prices below specified, during the month of February, 1872:

Feb'y 3d,	1872, 500 bbls. Pitts. coal, @ 85c.....	$425 00
" 10th,	" 300 " " " " " "	255 00
Total.....		$680 00

Pp. KENDIG & CO.,
JAS. D. SEGUIN,
Bk Cr.

Correct.

A. LAMBERT,
Levee Clerk.

(Endorsed:) 7057. Sabine & Richmond. Produced by Capt. Boffinger on cross-examination, 27 May, '75. J. W. G.

Exception to commissioner's report.—Filed June 5th, 1875.

S. C. SHIRLEY ET ALS.
vs.
ST'R RICHMOND.

MERCHANTS' MUTUAL INS. CO.
vs.
ST'RS RICHMOND & SABINE.

Circuit court of the U. S.

Consolidated cases.

Now come Sarah C. Shirley, America B. Selby, wife of Nathaniel C. Selby, and Richard F. Fuller, owners of the st'r Sabine, and Alfred Moulton, Achille Chiapella, Charles Cavarac, & Julius Tuyes, se-
420 curities on the bond given by the owners of the st'r Sabine, to respond to the cross-libel by Nat. Green & others, owners of the St'r Richmond, into court, and except to and oppose the report herein filed by J. W. Gurley, esq., United States commissioner, on the following grounds:

1. Because the report does not conform to the decree and order of reference.

2. Because the decree and order of reference directs the commissioner to report upon the damages sustained by the st'r Richmond in the collision between her and the st'r Sabine, and also upon the damages sustained by the Merchants' Mutual Insurance Company and intervenors by the same collision, and the commissioner has failed to report upon the last case at all.

3. Because the claim for wages of crew, $1,750, should have been entirely rejected, the owners of the Richmond having failed to show that

they had any crew on the boat between the date of the collision and the seizure of the boat, to wit, between the 11th and 16th of February, or what amount was paid by them.

4. Because the claim for fuel should have been rejected, the owners of the Richmond having failed to show with any degree of certainty the quantity used.

421 5. Because the claim for bow dock and repairs should have been reduced from 1,050 to at least $517, the amount those repairs cost. See testimony of McHaffie, Blue Book, p. 124; also testimony of McCord, clerk of the Richmond, 159; also testimony of Patrick Kane, deck hand on the Richmond, Blue Book, 201 & 202, who says that he has been ordered to put nothing on the bow of the Richmond, because she was broken down on the bow. Mr. Court, the mate, told him this.

6. Because the claim for wharfage, $45.60, should have been disallowed, the claimants having failed to prove how much they paid, and the testimony showing that the city has refunded to them the wharfage. See testimony of Boffinger.

7. Because the claim for stores consumed, $600, should have been rejected, the testimony in support of it being too uncertain to base a decree for any amount.

8. Because the loss, freight & passenger list, $2,250, is wholly unsupported by any testimony to support this claim for any amount, and it should have been entirely rejected; and if allowed for any amount, then the claim for loss of time should have been rejected, as both cannot be allowed.

422 9. Because the claim for survey and protest should have been rejected, the survey not being chargeable to the owners of the Sabine, and the owners of the Richmond having failed to show the cost of protest.

10. Because the claim for consumption of oil and rigging should have been rejected, the owners of the Richmond having failed to prove that oil or rigging were consumed or their value.

11. Because the claim for loss of time while repairing boat, $1,157.00, should have been rejected, there being no proof to show what time the boat lost or what she was worth.

12. Because the testimony of R. L. Robinson, jr., Capt. Cooper, and I. H. Lynch, shows that the injury sustained by the Richmond in her collision with the Sabine could have been repaired for between 300 & 350.

Wherefore appearers pray that this exception be maintained and the report herein filed rejected, or at least reduced to the actual cost of repairs, $517.

(Signed) BENTINCK EGAN,
R. H. MARR,
Proctors for Appearers.

423 *Order exception to report to lay over.—Extract from minutes of* 5 *June*, 1875.

S. C. SHIRLEY & AL. *vs.* ST'R RICHMOND. } 7057.

The exception to the commissioners' report came on this day for trial. Present, B. Egan, E. C. Billings, and M. M. Cohen. And after hearin

counsel, it is ordered that the matter lay over till the next term of the court.

Report on damages sustained by insurance companies & als., intervenors on cotton lost, &c.—Filed December 6th, 1875.

MERCHANTS' MUTUAL INS. CO. & ALS., INTERVENORS, *vs.* STEAMERS SABINE AND RICHMOND. } 7057.

To the hon. the circuit court of the United States for the fifth circuit and district of Louisiana:

The undersigned commissioner, to whom was referred the consolidated cases of Sarah Shirley et als. vs. Steamer Richmond, and The Merchants' Mutual Insurance Company and Intervenors vs. Steamers Sabine and Richmond, with directions, among others, to ascertain
424 and report the damages suffered by the said Merchants' Mutual Insurance Company and intervenors, in consequence of the said collision, with respect, reports:

That all the insurance companies now parties to the suit, the Merchants' Mutual Insurance Company, and the Mechanics & Traders' Insurance, alone filed libels in their own name; all the others, viz, The Factors' & Traders', The New Orleans Mutual Association, The Crescent, The Commercial, The Sun Mutual, and the Home Mutual, all claim as subrogees of the various individual intervenors who held insurance policies from them for order of subrogation (see record, p. 177). To the claims & allegations of those libels the companies have been confined.

Damages suffered by the companies have been assessed as follows:

	Dolls.
1. Merchants' Mutual Insurance Company	11,097 36
2. Mechanics & Traders' Insurance Company	899 63
3. Factors & Traders' Insurance Company	6,147 96
4. Crescent Mutual Insurance Company	4,569 85
5. Sun Mutual Insurance Company	5,955 17
6. Commercial Insurance Company	276 93
7. New Orleans Mut. Ins. Association	7,226 79
8. Home Mutual Insurance Company	1,048 75
Total	$35,222 44

Detailed statements in regard to the losses of the several companies are hereto appended.

Respectfully submitted.

New Orleans, 6 Dec'r, 1875.

(Signed) J. W. GURLEY, *Comm'r.*

425 MERCHANTS' MUTUAL INSURANCE COMPANY.

Statement of claim.

		Claimed.	Allowed.
T. L. Aivey & Co	162 bales cotton	16,200 00	16,200 00
Barrett & Lesassier	6 " "	350 00	350 00
a. Claiborne & Co	23 " "	2,305 10	2,300 00
T. T. Davis & Co	31 " "	2,750 00	2,750 00
b. Phelps, McCulloch & Co	11 " "	1,252 75	1,100 00
Richardson & May	½ of 49 " "	2,181 75	2,181 75
A. H. Peale & Co	2 " "	200 00	200 00
Adams & Cockburn	2 " "	107 05	107 05
Lehman, Newgass & Co	½ of 411 " "	1,590 95	1,590 95
c. Meyer, Weis & Co	¼ of 109 " "	2,929 31	1,306 30
Total		$29,796 91	28,016 05
Less credits, as per statement B, with Fourchy's deposition			16,918 69
Amount allowed			$11,097 36

Notes.

The above list embraces all the claims set out in the two libels of the company. The list *a* furnished by Mr. Fourchy contains, in addition the names of T. H. & J. M. Allen & Co., $106.95; of course no notice can be taken of this, as it is not included in either libel. He also claims to have paid Claiborne $10.25 on 9 Ap'l, '73, near a year after the libel was filed—rejected for same reason.

a. The testimony is conclusive that all the cotton was insured at $100 per bale. In no case is any sum in excess of that allowed. Claiborne had 23 bales and is paid accordingly.

b. Eleven bales allowed for at $100 per bale.

426 *c.* Fourchy's statement, *a*, shows that but $1,306.30 was paid on this claim; that amount is allowed.

Attest:

J. W. GURLEY,
Comm'r, &c.

MECHANICS & TRADERS' INSURANCE COMPANY.

Statement of claim.

Thompson & Son:

Thompson & Son,	p'r manifest,	12	bales			195 58
Blakemore Bro's & Co.	" "	18	"	⅓	insured	531 79
Beaumont & Fakes	" "	12	"			233 65
Aiken & Watt	" "	5	"	½	insured	145 87
Ben. Gerson, none, none						
						1,109 89
Credits						210 26
Am't allowed						$899 63

This is the most unsatisfactory case the commissioner has had to examine. The libel is a mere skeleton, and it is utterly impossible to determine anything from it, except that the company claims $1,038.00 for losses paid on bales of cotton insured for its owners.

The above list of names and amounts has been prepared from statement A filed with deposition of Mr. Coleman. The statement of the number of bales consigned to those parties, and the portion insured in this company, has been made up from manifest X X & papers attached filed by Mr. Geo. Mather with his deposition. The name of Ben.
427 Gerson is not on the manifest. It appears, however, from Mr. Coleman's statement A, that the loss was for four sacks of cotton seed. But the libel claims only for the loss of cotton, and even if cotton seed could be considered as embraced in the claim, there is no proof whatever of its value, or of the amount for which it was insured, nor that it was ever shipped.

Credits.—Statement X X filed by Mr. Mather shows that there was paid to the company $210.26, as the pro rata shares of Blakemore Bros., Beaumont, Fakes & Co., & Aiken & Watt. The amount is accordingly allowed as a credit.

Attest:

J. W. GURLEY,
Com'r, &c.

FACTORS & TRADERS' INSURANCE COMPANY.

Statement of claims as subrogees.

		Claimed in libel.	Allowed.
a.	Of Jurey & Gillis.....(manifest shows they had 99 bales).....	$10,890 00	9,900 00
b.	" Bussey & Co ..... " " " 28 " ...	3,360 00	2,163 00
c.	" Musson, Prestidge & Co ..... " " " 1 "	100 00	90 00
d.	" Winston, Morrison & Co..... " " " 2 "	200 00	19 56
e.	" Johnson & Goodrich ..... " " " 4 "	400 00	272 50
f.	" Clapp Bro's & Co ..... " " " 10 "	1,100 00	500 00
g.	" W. H. Farley & Co..... " " " 6 "	600 00	600 00
h.	" Penn, Pace & Simmonds..... " " " 26½ "	1,800 00	495 39
i.	" John Phelps & Co..... " " " 13 "	1,430 00	650 00
		.....	$14,690 45
j.	" Credits, as per statement C with Palfrey's deposition	.....	" 8,542 49
	Amount allowed.....	.....	$6,147 96

428 *a.* All the cotton was insured at $100 per bale; that rate of allowance is made for the 99 bales. The libel claims $1,890. Statement C, with Palfrey's deposition, $11,410.22.

b. The libel of Bussey & Co. claims $3,360. Palfrey's statement C claims $2,063.00, which is allowed. They had 28 bales.

c. Allowed conformably to claim in statement C, of Mr. Palfrey.

d. " " " " " " " " " "

e. " " " " " " " " " "

f. " " " " " " " " " "

g. Allowed at the rate of $100 per bale.

h. Allowed as claimed by Mr. Palfrey in statement C with his deposition. The order of court subrogates the company to ½ of the claim of these parties.

i. The company is subrogated by the order to ½ of the claim of Phelps & Co.; they had 13 bales, & claim in their libel $1,430. Palfrey, in statement C, claims $655.20. They are allowed for 6½ bales at the rate of $100 per bale.

The claims for amounts paid to Richardson & May, to Blakemore Bros. & Co., & to R. C. & Oglesby (the 2 last by the Atlantic Co.) are

rejected, as they do not appear in the pleadings, nor in the order of subrogation, and have never been presented to the court. They are nowhere to be found except in the testimony of the witness.

j. Palfrey gives credit for $9,675.91. I have deducted from this
429 the $1,133.42 which he credited to the rejected claim of Richardson & May.

Attest:

J. W. GURLEY, *Comm'r.*

CRESCENT MUTUAL INSURANCE COMPANY.

Statement of claims as subroger.

							Claimed in libel.	Allowed.
a.	Of T & S. Henderson, manifest shows they had	20	bales				1,344 00	884 02
	" A. Lord (Levi) & Co.,	"	"	8	"		100 00	99 65
b.	" Campbell & Strong,	"	"	6	"		500 00	309 75
c.	" Penn, Pace & Simmonds,	"	"	26	"	(½)	1,800 00	495 39
d.	" Jno. Phelps & Co.,	"	"	13	"	(½)	1,430 00	402 20
e.	" Lehman, Nugass & Co.,	"	"	411	"	(½)	43,155 00	3,043 04
								$5,234 05
f.	Credits, as per "abstract," with Ogden's deposition							664 20
	Amount allowed							$4,569 85

Notes.

a. Allowed as claimed in "abstract," with deposition of Henry V. Ogden, Sec't'y of Co.
b. " " " " " " " " " " " "
c. " " " " " " " " " " " "
d. " " " " " " " " " " " "
e. " " " " " " " " " " " "

In addition to the claims above enumerated the "abstract" filed with the deposition of Mr. Ogden shows that the company paid losses of Meyer, Weis & Co., $1,021.35, of Nalle & Cammack, $106.50, and of C. M. Hervey & Co., $358.20, of which no notice can be taken because they have never been presented to the court, have been claimed in no libel, and so far as the company is concerned, no mention has been
430 made of them except in the deposition of Mr. Ogden.

f. Mr. Ogden's "abstract" allows a credit of $838.53. This is evidently the distributive share of the company in the proceeds of unidentified cotton, which amounted to $33.21 per bale. As the claims of Meyer, Weis & Co., Nalle & Cammack, & Hervey & Co., 5¼ bales, have been rejected, the credits on their cotton have been deducted. As to the rate, see manifest marked X X filed with deposition of Geo. Mather, sec't'y board underwriters.

Attest:

J. W. GURLEY, *Com'r.*

SUN MUTUAL INSURANCE COMPANY.

Statement of claims as subrogees.

	Claimed in libel.	Allowed.
a. Of Levi & Haas, manifest shows they had 41 bales	$4,100 00	1,815 56
a. " W. J. Frierson, " " " " 98 "	9,800 00	4,272 38
a. " R. Flower & Co., " " " " 4 "	480 00	365 38
		$6,453 32
c. Credits		498 15
Allowed, fifty-nine hundred & fifty-five 17-100 dolls		$5,955 17

Notes.

a. These amounts are allowed as claimed in statement K, filed with deposition of Mr. Day.

The credits allowed are the sums paid to the company as the pro rata share coming to Levy & Haas & W. J. Frierson, of proceeds of sale of 92 bales of unidentified cotton. See manifest marked X X, and papers attached, filed with deposition of Geo. Mather, sec'ty board underwriters.

431 The other claims set forth in said statement K with deposition of Mr. Day have never been presented in court by libel or otherwise, and cannot be noticed. The company claim only as the subrogees of Levi & Haas, W. J. Frierson & R. Flower & Co., and cannot go beyond their libels.

Attest:

J. W. GURLEY, *Com'r.*

COMMERCIAL INSURANCE COMPANY.

Statement of claims as subrogees.

	Claimed.	Allowed.
a. Of Payne & Dameron, had by manifest 11 bales	$900 00	900 00
b. Credits		623 00
Am't allowed		$276 93

Notes.

a. In statement furnished by this company with deposition of Mr. Huntington, marked R, the charge is $909.55; all in excess of the amount claimed by Payne & Dameron in their libel, viz, $900, is disallowed.

The said statement R makes claim also for losses paid Blackmore & Co., $398.84; Meyer, Weis & Co., $817.04, and Meyer, Weis & Co., $204.31. It is difficult to understand why the claims are sought to be proved up, as no claim for them has been filed in court. This company stands on the record simply as the subrogees of the claim made by the libel of Payne & Dameron for $900. Proof of other losses certainly cannot avail them.

b. Credits.—The statement of the auctioneer of acc't sales of

432 cotton of Payne & Dameron, made by order of this company, give

$556.65 as the net proceeds; and the statement attached of the board of underwriters shows that the distributive share of proceeds of unidentified coton paid to the company on account of Payne & Dameron amounted to $66.42; these two amounts were allowed as credits.

Attest:

J. W. GURLEY, *Com'r.*

NEW ORLEANS MUTUAL INSURANCE COMPANY.

Statement of claims as subrogees.

	Claimed in libel.	Allowed.
Of Lehman, Newgass & Co., total pr. manifest 411 bales, ¼	$43,153 00	2,950 39
" B. M. Howell & Co., " " " 32 "	3,024 00	820 80
" Stewart & McCarthy, " " " 58 "	5,200 00	5,200 00
" Brodnax & Campbell, " " " 23 "	2,300 00	1,900 00
" Golson Bros., " " " 18 "	1,800 00	1,800 00
	$12,671 19	
Credits allowed as claimed in Mr. Lanaux statement T	5,444 40	
Amount allowed		$7,226 79

Notes.

a. This is allowed for the amount claimed in the libel. All the others are allowed as claimed in statement T filed with the deposition of Mr. Lanaux.

Attest:

J. W. GURLEY, *Comm'r.*

433 HOME MUTUAL INS. COMPANY.

Statement of claim as subrogees.

	Claimed in libel.	Allowed.
Of J. P. Higgins & Co., by manifest, had 71 bales on boat, about	$2,000 00	$1,048 75
Randall & Co., " " " 51 " " " about	2,000 00	3,039 55
Total	$4,088 30	
Credits	3,039 55	
One thousand & forty-eight .75 doll's allowed		$1,048 75

Notes.

The papers filed before the commissioner by Mr. Sefton on behalf of this company, show that they paid to Higgins & Co. $1,048.75, and to Randall & Co. 3,039.55; as allowed $4,088.30; and they also show that the company received, as proceeds of damaged cotton sold, and as the pro rata share of those firms, of proceeds of unidentified cotton, the sum of $3,039.75, as credited above, leaving due to it $1,048.75.

Attest:

J. W. GURLEY, *Comm'r.*

Testimony of libellants.—Filed December 6th, 1875.

United States circuit court, 5th circuit, district of Louisiana. In admiralty.

NEW ORLEANS MUTUAL INSURANCE ASSOCIATION et als., intervenors,
vs.
STEAMERS RICHMOND AND SABINE.

434 Before J. W. Gurley, United States commissioner, on the question of damages.

NEW ORLEANS, *Oct.* 23, 1875.

Present, M. M. Cohen and Albert Voorhies, esq'rs, for intervenors; B. Egan, esq., for st'r Sabine, and notice left at Mr. Billings' office in the hands of John Devonshire, esq., who appeared at time and place fixed.

PAUL FOURCHY, president Merchants' Mutual Insurance Co., being sworn in that behalf, says:

The document A here filed contain the names of the parties insured against loss by the Merchants' Mutual Insurance Company on the occasion of the collision between the steamers Richmond and Sabine in February, 1872.

1872.			
Feb'y	16. T. L. Airey & Co	$16,200	
"	21. Barrett & Lesassier $300, March 4, $50	350	
M'ch	2. Claiborne & Co	$2,305	10
"	5. J. P. Davis & Co	2,750	
"	6. Phelps, McCulloch & Co	1,252	75
"	" Richardson & May	2,181	75
"	" T. L. Airey & Co	1,185	50
"	8. A. H. Peal & Co	200	00
"	18. Claiborne & Co	272	00
"	" Adams & Cockburn	107	05
	M'ch 18. Lehman, Newgass & Co	1,520	95
435	Ap'l 13. Meyer, Wies & Co	1,306	30
	June 6. T. H. & J. M. Allen & Co	106	96
Ap'l 9,	73. Claiborne & Co	10	25
	Total	$29,748	61

All these parties were paid the amounts placed opposite their names. At the time that I paid them the bills of lading were produced and I was satisfied that the parties were entitled to have their money.

These were paid on account of the collision between the steamers Richmond and Sabine, and we were then subrogated to the rights of these parties to whom we paid the loss.

Previous to the payment and at the time of payment, the bills of lading were produced and I was satisfied that all the above parties were entitled to be paid.

I will state also that from some of these parties to whom we paid as for a total loss we received some salvage or the remnants of the cotton sold in a damaged condition. This list B contains the names of the parties and the amounts from whom we received it as follows:

Feb'y 23, '72, cotton a/c	T. L. Airey & Co	$8,473 07
" "	Barrett & Lesassier	234 41
" 28, "	Phelps McCulloch & Co	738 00
"	Richardson & May	1,109 87
436 Feb'y 29,	J. P. Davis & Co	$1,624 75
M'ch 4,	T. L. Airey & Co	2,236 65
M'ch 4, Claiborne & Co		962 20
"	J. P. Davis & Co	57 49
" 16,	A. H. Peal & Co	113 70
" "	Richardson & May	23 55
" 20,	Unidentified	1,345
Total.		16,918 69

This total amount as here found is a credit on the first list A, which, subtracted, leaves the net claim to be $12,829.92.

The receipts of all these parties in list A for the amounts paid them are set out in the books of the company, copies of which will be furnished and placed in evidence.

I have looked for all the bills of lading on which these amounts were paid, but was unable to find them. I will endeavor further to find the bills of lading and furnish them. They were mislaid, but I made a diligent search for them.

Cross-examined:

Q. Do you know of your own knowledge whether this cotton was on board the steamer Sabine?

A. Not further than the bill of lading shows.

Q. Do you know whether the bills of lading that were present-
437 ed by those parties were signed by the proper officer of the Sabine?

A. I think they were.

Q. Do you know of your own personal knowledge?

A. I cannot say that I know it. They were signed by the clerk of the boat, but I am not familiar with his signature; they were apparently genuine.

Q. Do you know the name of the clerk of the boat?

A. I don't remember now, but I know that we received salvage upon these consignments.

Q. How was this cotton that was saved from the wreck sold?

A. I have no recollection at present, it is so long ago.

Q. What were the expenses you paid for selling this cotton and others in connection with it?

A. I could only say by referring to our books, not from memory, but I have not the books here.

Q. Do you know whether these expenses that you paid were neces sary?

A. Yes, sir; I am satisfied of that; that is of my own knowledge.

Q. Do you know what the expenses were?

A. I cannot tell the precise amounts without reference to the figures. I don't know what they were for particularly, but they were for inspecting, picking, and such things.

438 Q. Do you know whether any of them were overcharged?

A. No, sir; they were not; according to my judgment they were not overcharged.

Q. Was there any cotton entirely lost, or is this claim based only on damaged cotton?

A. I think there were some bales lost. I don't remember the number, but I think part was entirely lost.

Q. Do you know how many bales were entirely lost?

A. I don't remember now.

Q. Can you give any idea of about the number?

A. No, sir; not without reference to our books.

Q. How did you ascertain the damages on the cotton that was saved?

A. I think it was put in as good a condition as possible and then sold. Some of it may have been sold by auction. I have no distinct recollection of it now.

Q. Do you know how many bales of cotton each one of the persons or firms enumerated in the list A received?

A. All these details I cannot state except by reference to our books; it is three years ago.

Q. Have you any invoice of the cotton?

A. It is not usual to invoice cotton; they are insured at a specific value, so much a bale.

Q. What were they insured for?

439 A. I don't know now. I can say that they were $100 per bale, because the first item, T. L. Airey & Co., we paid $100 per bale on that.

Q. How much was cotton worth at the time?

A. That was about the value of it.

Q. But by the pound?

A. I don't know.

Q. How many pounds were there in each bale?

A. They vary from 450 to 500 pounds, some more or less and some 600.

Q. Is a bale of cotton now worth $100?

A. Not now.

Q. Do you know whether any of this cotton was insured at a higher amount than it was worth?

A. No, sir; I believe all the companies had a uniform standard of value, and that standard was changed from time to time, to agree with the price of cotton.

Q. When was the standard fixed upon which the insurance was effected in this case?

A. There is no regular time to make them, but from time to time, as the market changes.

Q. Are you certain that it was as high as $100 a bale at that time?

A. It must have been.

By Mr. COHEN:

440 Q. Look at any one of these bills of lading produced, and see if you can remember anything about it, or if it is signed like the rest of the bills.

A. That is more than I can say. I will here state that in several of these losses we had only a partial interest. We were interested with several other companies, and these companies may have the bills of lading.

Offered by Mr. Cohen, on behalf of the insurance companies, the entry and order granting to them the right of subrogation, as appears in the record of the cause in the U. S. dist. court, by which the insurance companies were authorized to prosecute said cause in their own behalf on May 3d, 1873.

Attest:

J. W. GURLEY, *Comm'r.*

E. A. PALFREY, president of the Factors and Traders' Insurance Company, being sworn, says:

Our company paid losses to certain individuals who sustained such losses by reason of the collision between the Richmond and Sabine in Feb'y, 1872.

441 I hereby furnish a statement of the persons to whom we paid them and the amounts, in this Document C. I also represented certain parties insured by the Atlantic Insurance Company, whose assets were purchased by the Factors and Traders' Insurance Company. This Document C is a list of amounts paid and also the amounts received after the sale of the damaged cotton. It is the net amount paid by the Factors and Traders' Ins. Company.

I also produce some of the bills of lading, viz: That of Jurey & Gillis, marked D; that of H. W. Fairley & Co., marked E; John Phelps & Co., marked F; and Johnson & Goodrich, marked G.

The following is a bill of lading which should be settled by the Atlantic Insurance Company, and for which the Factors and Traders' Company was not responsible, viz: That of Blakemore Bros. & Co., marked H. We were interested in that to the extent of $\frac{3}{4}$ for the Atlantic Insurance Company. and the Commercial Insurance Company $\frac{1}{4}$.

I have made efforts to find the other bills of lading, but could not find them. I have made diligent search for them, but failed.

At the time of these transactions Mr. Harmon Doane was president of the company, but is since dead.

Cross-examined:

442 Q. When did you become president of the Factors & Traders' Insurance Company?

A. In February last.

Q. You were not connected with it at the time this accident occurred?

A. Yes, sir; I was secretary.

Q. Are the facts that you have testified to of your own personal knowledge, or derived from the books or from statements made to you by others?

A. As far as the payment of the losses is concerned and the amount received for the damaged cotton, I know of my own personal knowledge. I paid the losses myself.

Q. All the rest of the statements you made are derived from the statements of others?

A. All of the statements that I made here are of my own personal knowledge, except the payment made by the Atlantic Insurance Company.

Q. Have you received any subrogation from the parties to whom you paid the several amounts which you claim to have paid?

A. Yes, sir.

Q. Where are those subrogations?

A. Here is one of them—the only subrogation we have taken.

Q. Have you given any credit for the amount you received from the sale of the damaged cotton?

443 A. Yes, sir; it is put down there in that statement all the amounts I received from the sales at auction, but where the cotton was sold by the factor the amounts received was credited to the loss and deducted in the settlement.

Q. What is the amount of the total loss claimed by the Factors & Traders' Insurance Company now?

A. By their statement there it is a little over $10,000—that is, for the company itself.

Q. Is the Atlantic Insurance Company a party to this suit?

A. Some of their consignees are on this list furnished, and are stated under that head, but the Factors & Traders' Insurance Company are the intervenors.

Q. Do you know whether the clerk of the Sabine signed the several bills of lading that you present?

A. No, sir.

Q. Do you know who was clerk of the boat?

A. No, sir.

Q. Did you ever have all the bills of lading of the several persons or firms whom you represent as having paid?

A. I did; I must have had them; it was essential.

Q. What has become of these bills of lading?

444 A. I cannot say.

Q. Who takes charge of them?

A. I did at that time.

Q. What disposition do you usually make of them?

A. I generally keep them where it is a total loss, but in a partial loss the factor needs them, and they are returned to him. I found in these cases where they had been pasted on a book and taken off and returned to the factor.

Q. Was any of this cotton delivered to the factor of the insured?

A. I think so. That of Johnson & Goodrich was returned to them. All that information may be gotten from the secretary of the Board of Underwriters, of what was saved and what was short.

Q. When did the Factors & Traders' Insurance Company purchase the assets and interest of the Atlantic Company?

A. In the summer of 1872, but I don't recollect the exact date of the transfer. The first credit I have on the books for them is the 31st of August, 1872.

Q. How was this cotton that was taken by the insurance companies or by the factors sold?

445 A. When it was sold by the factor it was sold either from his tables as it was picked or sent to the pickery and there sold. The pickings and all were sold, and a credit given for both, but when it was taken possession of by the insurance companies it was sold at public outcry by Nash & Hodgson, auctioneers.

Q. Were you present at any of the sales?

A. No, sir.

Q. Then you don't know how much was realized from the sales, except from the returns made by the auctioneers?

A. That is all.

Q. What salvage did you pay, if any, on this cotton?

A. The salvage was various. I notice that on some of the bales it was $4.75, and I notice again that it was as high as $16 a bale.

Q. Could you give the total amount of the salvage you paid, and to whom you paid it?

A. It is all in the papers offered in connection with my deposition. It is noted in the particulars of the loss. Here is one bill on which there were $4.75 paid on twenty bales, but on the twenty other bills there were $16 paid each, on seventy-one bales.

Q. Do you know whether any of this cotton was insured at an amount exceeding its actual value?

446 A. No, sir; but there were cases in these proofs in which the insured value was less than the market price or value.

Q. That is one instance?

A. That is one instance, I recollect in looking over them.

Q. Do you recollect how much cotton was worth a pound?

A. Yes. sir; 22¼, and some grades as high as 25 cents a pound.

Q. How many pounds in a bale?

A. They vary from 430 to 500, and I have seen them weigh as high as 500.

Q. You don't know the weight of any of these bales on the Sabine?

A. No, sir; but you will see on the list a great many of the weights that are brought down. For instance, the seventy-eight bales, the average weight being 495 pounds.

Q. You don't know that of your own personal knowledge; you take that from the statements?

A. These are statements of reliable merchants, the consignees of the cotton who made proof of the loss.

Q. Were there any freight & charges on this cotton?

A. Only so far as they are in evidence.

Q. But you don't know what the freight & charges were on those upon which you had bills of lading?

447 Ans. No, sir.

Q. You don't know whether the factors or consignees paid the freight & charges?

Ans. No, sir.

Q. They made no deduction in settling with the insurance companies?

A. Yes, sir; I deducted the original freight on all of them.

Q. As the freight was paid to you?

A. No, sir.

Q. Whom was it paid to?

A. I don't know. We deducted it because they were not entitled to it, as the cotton was not delivered. We paid only the actual freight, which is all that comes within our province. The statements furnished with my testimony shows the original freight that was deducted. All these statements are in evidence and show that, but I don't know who got it. It was never paid to the company—to anybody—and no credit given for it to the steamboat Sabine. She was not entitled to have it, as she did not deliver the cotton.

Attest:

J. W. GURLEY, *Comm'r.*

HENRY V. OGDEN, secretary of the Crescent Mutual Insurance
448 Company (the president being absent from the city some months), being sworn, says:

I have no aggregate statement of the amount of losses paid by the Crescent Insurance Company in consequence of the collision between the steamers Richmond and Sabine, but I have a statement of the various amounts paid and the names of the parties to whom they were paid, as follows, viz:

Lehman, Newgass & Co	$3,043 04
John Phelps & Co	$402 20
Campbell & Strong	$309 75
F. & S. Henderson	$884 02
Penn, Pace & Simmons	495 40
A. Levi	99 65

Meyer, Weis & Co.	817 04
C. M. Hervey (bill of lading produced)	358 20
And Nalle & Cammack	106 50

Some of the bills of lading I have, and others I have not. I have looked for those which I have not got. I could not get them because I saw that the Factors and Traders' Company has one of them, and probably all the rest of the bills of lading are in the hands of the
449 other companies. I will look for the bills of lading that are not introduced, and, if found, I will produce them. The bills of lading were produced when the loss occurred, but if when Mr. Adams, the president, arrives, and finds any of them, I will return them here.

Cross-examined:

Q. Do you know, of your own knowledge, whether this cotton that you say you paid for was actually on the steamboat Sabine at the time she was sunk in the collision between her and the Richmond?

A. I have no knowledge except from the bills of lading.

Q. Have you got the bills of lading?

A. In all cases I either saw the bills of lading, or another company, who was half interested, did, or said they saw it, and made the adjustment, and we settled as they did.

Q. Do you know who the clerk of the Sabine was?

Q. I only remember from seeing some of the bills; one clerk was Fuller; but generally there are always two clerks on these boats.

Q. Do you know Fuller's signature?

A. I cannot swear to it; but I have seen it within this half hour.

450 Q. Did you ever see the man?

A. No, sir.

Q. You never saw him write or sign?

A. No, sir.

Q. Then you could not, of course, swear that that was his genuine signature to the bill of lading that you have seen?

A. No, sir.

Q. Was the boat entitled to any freight on this cotton by the bills of lading?

A. Yes, sir.

Q. Were there any charges on it?

A. There might have been bills of lading where there were charges as well as freight; very often boats have to advance when they send it by other boats, or reship it.

Q. Do you know whether these charges were paid to the Sabine?

A. I don't know; but I take it for granted that if she delivered her cotton she got paid by somebody. I only know the general principles; if she did not deliver her cargo she is not entitled to freight.

Q. You never saw any of this cotton on her?

A. No, sir.

Q. You know nothing of it being lost on her except from the statements made to you by others?

A. I have seen the protest itself, a sworn instrument, which is
451 evidence in this case. It sets forth the general terms of the accident; but I don't think that it sets forth the exact cotton that is lost.

Q. Then you have no idea of what cotton was lost or injured by the collision of the Richmond of your own personal knowledge?

A. I have this idea, that the Crescent Insurance Company had a cer-

tain number of bales insured with such a mark, and some were damaged and some never came to hand, and some came to port damaged; that is, beside those of Lehman, Abraham & Co.

Q. You don't know of your own personal knowledge that they had this cotton; you only obtained this information from the statements made to you by others, or documents presented to you?

A. Well, with regard to the cotton short, we always have a clerk on the levee, and when a boat comes in all the cotton that he does not get we presume he is short.

Q. You don't know whether Lehman, Newgass & Co., or any other person whom you paid, had any cotton on this boat except through their representations to you; you did not see it?

452 A. No, sir; only the bills of lading and such, but the proofs were satisfactory to us.

Q. Do you know what the freight on this cotton was?

A. No, sir; I don't recollect.

Q. Do you know what was the gross proceeds of the cotton that was saved purporting to have been brought down by the Sabine?

A. Not at all; but in all these statements you will see the net proceeds of the sale.

Q. But do you know what were the gross proceeds?

A. No, sir; but in some of these papers you will see the auctioneer's returns, which will show.

Q. But with your company is there any showing what the gross proceeds were?

A. There are in two or three cases.

Q. Were there any detailed statements of the expenses?

A. There is a full statement in each case.

Q. Is there any detailed statement of the various items of expenses?

A. No, sir; I don't know that there is, but in most cases you will see how much there was for the pickings, extra freight, auctioneer's charges, & so on.

453 Q. Do you know whether all these expenses were actually incurred; did you witness them being incurred?

A. We took it for granted that we were dealing with gentlemen who would not ask us to pay for things that were not actual.

Q. Have you taken any subrogation from these different parties to whom you state you made payments?

A. I don't know of any; I have taken no written subrogation that I am aware of.

Q. (By Mr. COHEN.) Would it be possible or practicable for the secretary or president of the company to see all the bales of cotton insured in every boat they are found, and to see all the auctioneers' sales that take place, and what the cotton brought?

A. No, sir; it was not possible.

Attest:

J. W. GURLEY, *Comm'r.*

JAMES J. DAY, president of the Sun Mutual Insurance Company, being sworn, says:

454 This statement K shows that the Sun Mutual Insurance Company paid out losses to the amount of $7,540.68, caused by the collision between the steamers Richmond and Sabine, in February, 1872. I also present the bills of lading in two cases, Levi & Haas for forty-one bales of cotton, and R. Flower & Co. four bales. Also

the auctioneer's certificate of the proceeds of the sale of Levi & Haas. Also the statement by which the company made the settlement with them at $1,815.56, between the net proceeds after crediting the sales at auction against the loss on the forty-one bales (see L).

I also produce the settlement with Meyer, Weis & Co., with their receipt for one-fourth of $3,026.75, amounting to $756.69. I produce with that the account sales of seventy-six bales of cotton, more or less damaged, part of it damaged and part not. It is marked M.

I also produce the receipts of R. Flower & Co. for $365.38, being the total loss on all but one bale, four bales with the bill of lading or copy, not signed. It is marked N.

I also produce the settlement and receipts of the loss paid to W. J. Frierson & Co., $4,272.38, being the net amount of the loss on ninety-eight bales of cotton; also the bill of lading, marked O. Also the
455 receipt of Meyer, Weis & Co. for $204.31, with one-fourth of the freight and charges on 146 bales of cotton, which was paid, not to the Sabine, but to the boat that brought the cotton down from the wreck of the Sabine. That is marked P. Also the receipt for $66 paid Nash & Hodgson for the watching and protecting of the cotton, and taking care of it pending the sale at auction. It is marked Q. I cannot produce the bills of lading of Meyer, Weis & Co. We have looked for the bills of lading not produced, but could not find them. There were four companies interested in the risk, and some one of the four has the bills. There is only one bill of lading, and four companies insuring, so that the one bill of lading would cover the four.

Cross examined:

Q. When did you become connected with the Sun Mutual Insurance Company?

A. In July, 1871.

Q. Do you know of your own knowledge whether any of this cotton that you have enumerated as having been paid for by your company was ever on board the steamboat Sabine?

A. I know that just as well as I know George Washington lived; no other way.

456 Q. Do you know it of your own personal knowledge?

A. I think I can say that it is to my own personal knowledge. It was my business to satisfy myself that the cotton was on board before I paid the loss, and I satisfied myself of that and paid.

Q. Did you ever see any cotton on board the boat?

A. No, sir.

Q. Did you ever see any of it insured?

A. Yes, sir.

Q. Where did you see it?

A. On the levee.

Q. What boat did it come from?

A. From the Sabine, to the best of my knowledge and belief.

Q. Did you see it come from the Sabine?

A. I did stand on the levee and see it come off the boat, or the boat that brought it down.

Q. Did you take any subrogation from the parties to whom you paid the loss?

A. No, sir; only what my policy of insurance gives me.

Q. Have you got the bills of lading from the several parties who sustained the losses and to whom you made the payments?

A. I have stated what I have.

Q. You have none others than what you have offered in evidence?

A. No, sir.

Q. Did you ever have any others?

457 A. I have had them in my hands, because I did not settle the loss until I saw the bills of lading.

Q. What has become of those bills of lading?

A. I cannot say; some of the other companies may have them, or the factors may have them. We have asked them to find them and give them to us.

Q. Do you know whether the bills of lading were signed by the clerk of the boat?

A. Yes, sir.

Q. Do you know the clerk of the boat?

A. I know simply from the fact that all the bills of lading are signed by the clerk of the boat. I have been in the commercial business for forty years, and I know that bills of lading *as* signed by the clerk of the boat.

Q. Did you know the clerk of the Sabine?

A. No, sir.

Q. Did you ever see the man?

A. No, sir; not to my knowledge.

Q. Did you ever see him write or sign his name?

A. No, sir.

Q. Do you know whether the bills of lading referred to in your testimony contain his bona fide signature?

A. I know it by the way I know all commercial transactions of that nature. In other words, I have no doubt at all about it.

458 Q. But you don't know it of your own personal knowledge?

A. I did not see him sign it.

Q. Do you know whether the freight and charges due to the boat upon this cotton that you have referred to have ever been paid?

A. I don't know; but I know this, that unless a boat delivers her cotton her freight is not paid. The insurance companies have nothing to do with it except in a total loss. We then deduct the freight from the amount for which the cotton is insured under the bills. If the cotton is insured for $100, and the cotton is lost or destroyed, the freight, if it is two or three dollars a bale, is deducted in the settlement.

Q. But where the loss is only partial?—A. The freight is generally not paid to the boat that starts with the cotton unless she delivers it.

Q. Then the insurance company pays the partial loss, but nobody pays the freight?

A. I don't know that nobody pays it, but the owner pays it in all cases where it is delivered. If a boat brings in the cotton here, she collects the freight, but if she transfers it to another boat, that other boat collects the freight if she delivers it.

459 Q. In the case of the Sabine when she sunk here near New Orleans and never delivered the freight, and it was brought to the city by the wreckers, would the wreckers be paid the freight that was earned by the Sabine?

A. No, sir.

Q. To whom would it be paid?

A. To nobody. The Sabine did not earn it since the Sabine made arragements with the Richmond whether she should have it.

Q. If the Sabine pays freight on a cargo that has been lost, is she not entitled to it?

A. Not unless she delivers it; if she puts it on another boat she is not.

Q. Is she not entitled to her freight?

A. If she delivers the cotton she is.

Q. But if she pays freight on it, is she not entitled to receive it?

A. No, sir; because if the cotton is not delivered, as in the case of a total loss, and the cotton insured for $100 a bale, she would not be liable for the whole $100, but would be entitled to deduct the freight in a settlement. That is, if the cotton was insured for $100, she would be liable only for $98; and so, if the insurance companies are to pay this $100 on the cotton in the case of a total loss and it not being delivered,
460 why then the original companies deduct the original freight from the amount when they come to settle with the parties to whom they are charged. Therefore the insurance companies pay only $98, and then charge to the person by whom they expect to be reimbursed $98. But if the consignee receives the cotton here, or his agent, then he pays the freight on it. I cannot say how much of this cotton paid for was a total loss.

Attest.

J. W. GURLEY, *Com.*

WALTER HUNTINGTON, secretary of the Commercial Insurance Co., being sworn, says:

I herewith furnish a statement of the losses paid by the Commercial Insurance Co. in consequence of the collision between the steamers Richmond and Sabine in February, 1872, marked R.

Also the bills of lading of Payne, Dameron & Co., marked S, and that of Blakemore Bros. & Co., marked H, the latter being already in evidence in connection with the deposition of E. A. Palfrey.

There is only one firm to whom we paid a loss for which we have
461 not the bill of lading; that is in the matter of Meyer, Weis & Co. Some one of the other four companies have it.. (See Exhibit M, deposition of James I. Day.)

I also furnish the receipts of the parties to whom the money was paid; that is, if desired, or will furnish copies from the books.

Also to be furnished the account sales of the damaged cotton as returned by Nash & Hodgson, auctioneers.

Cross-examined:

Q. Do you know of your own knowledge whether this cotton was on board the Sabine?

A. No, sir.

Q. There is one of the bills of lading presented by you which is not signed.

A. Frequently it is the case that duplicates are given which are forwarded to the factor or the insurance company as proof, and we accept them and pay on them where we are satisfied there is no fraud.

Q. Do you know whether the freight and charges due to the steamboat Sabine were ever paid?

A. No, sir; but I presume that if the cotton was delivered here she was paid; but I don't know that.

Attest.

J. W. GURLEY, *Com.*

462 GEORGE LANAUX, secretary of the New Orleans Mutual Ins. Association, now the N. O. Ins. Association, being sworn, says:

The New Orleans Mutual Insurance Association here furnishes a state-

ment of the losses paid by them caused the collision between the steamers Richmond and Sabine in February, 1872, marked T.

Also the bills of lading, seven in number, marked U; of these Lehman, Newgass & Co. were insured and paid for the full amount.

The other bills of lading are not in my possession; they are in possession of the companies who had the largest interest. The bill of lading of Brodnax & Campbell is missing, but I have made diligent search and could not find them. We did not pay any loss without having or seeing the bill of lading. It is now lost or mislaid, as it is three years since *now since* the loss.

I have the receipt for all the losses we have paid, and I will furnish now two of them which are with subrogations; one is Golson & Bros. and Stewart & McCarthy, marked V and W. I have no other papers connected with this matter.

463 Cross-examined:

Q. You don't know of your own personal knowledge of this cotton being on board the Sabine?

A. No, sir; not otherwise than by the bills of lading.

Q. I observe that all the bills of lading are not signed.

A. Well, they may be copies or duplicates furnished to us by the consignees. There is one of them signed by Fuller. The parties insured did produce the bills of lading, and furnish us these copies, some of them not signed.

Q. Do you know whether the Sabine was paid the freight and charges?

A. No, sir; I know nothing about it.

Q. (By Mr. COHEN.) At the time of this collision in February, 1872, Mr. Cavaroc was president of the company?

A. Yes, sir; but he is not president now. Mr. Musson, who is now president, knows nothing about it, because at that time I alone attended to that part of the business.

Adjourned to Monday, Oct. 25, at one p. m.

Attest:

J. W. GURLEY, *Comm'r.*

464 NEW ORLEANS, *Oct.* 25, 1875.

Examination resumed.

Present M. M. Cohen, esq., for insurance companies, intervenors; B. Egan, esq., for steamer Sabine.

THOMAS SEFTON, vice-president Home Insurance Co., being sworn, says:

I was not in office at the time of the collision between the steamers Richmond and Sabine, in February, 1872. The person who was president at that time is not president now. All the officers, employees, and every one connected with the company at that time have been changed.

The Home Insurance Company insured but two firms whose cotton was lost or destroyed by the collision. There were—J. P. Higgins & Co.—seventy-one bales on which we paid a partial loss of $1,048.75; the other was that of Randall & Co., fifty-one bales, and were paid $3,700. The payment to J. P. Higgins & Co. was made on the 1st March, 1872, and that of Randall & Co. was paid on the 23d February, 1872. These are all that the Home Insurance Company had insured, according to our papers and receipts.

It is evident from the amount in the Higgins case that the loss was

partial, from the fact that Higgins & Co. had seventy-one bales
465 and did not receive as much as Randall & Co., who had only fifty-one.

This receipt book which I here present contains the receipts of the above two firms for the amounts paid them (receipt book produced), copies of which will be furnished in evidence.

Besides the open policies and other evidences which show the risks, etc., we have also the monthly returns made by the different merchants showing the number each had insured on open policy.

Cross-examined:

Q. When did you go into the employ of the Home Insurance Company?

A. The election was held on the first Monday of December, 1873, at which they changed all the directors of the company, and the first meeting of the directors elected in 1873 was held in February, 1874, when the officers were elected, myself amongst the number.

Q. You were not in the employ of the company previous to 1873?

Ans. No, sir.

Q. You know nothing in regard to this matter which you now testify to, except what you ascertain from the books of the company?

Ans. That is all.

466 Q. You don't know whether the cotton referred to, and which you say was paid for, was ever on board this boat?

A. I cannot swear to that, but I will remark that the only evidence we ever had were the statements we got from the merchants, which they furnish at the end of each month.

Q. Have you any bill of lading showing the receipt of the cotton?

A. I am not aware of it, but I will make a search. One of the firms, that of J. P. Higgins & Co., is now dead.

Q. Do you know whether there were any freight and charges due to the boat?

Ans. No, sir.

Q. Consequently you don't know anything as to whether they were paid?

A. No, sir.

Q. Were you in the employ of the company when the receipts referred to were given?

Ans. No, sir.

Q. Do you recognize on the receipts the signatures of either of the firms?

A. Yes, sir; I recognize both of them. I came in contact with both gentlemen since I came into the employ of the company, and know their handwriting.

Q. (By Mr. COHEN.) Mr. Brother, who was president of the company at that time, is now dead?

467 A. I don't know, but from all I can learn this matter occurred under Mr. Moulton's administration.

Attest:

J. W. GURLEY, *Com'r.*

MERCHANTS' MUT'L INS. CO. ET ALS.
vs.
STEAMERS RICHMOND AND SABINE.

NEW ORLEANS, *November 5th*, 1875.

Testimony on behalf of libellants resumed.

Present, M. M. Cohen, esq., for libellants; R. H. Marr, esq., for steamer Sabine; E. C. Billings & A. Voorhies notified, not present.

GEORGE MATHER, secretary of the board of underwriters, being sworn, says:

To Mr. COHEN:

I have been secretary of the board of underwriters for more than three years.

Q. Do you know anything about the manifest of the steamer Sabine at the time of the collision between the Sabine and the Richmond?

A. Yes, sir; I have the manifest. It has been filed in the office of the board of underwriters since that time.

Q. How did you come by this manifest?

A. It was brought to the office of the board of underwriters by
468 the officers of the Sabine. This manifest introduced is the same marked X X.

Q. Explain from that manifest how you took off the names; the entries of the bales, and the amount of insurance.

A. We copied off the manifest exactly as you see it there; for instance, Lehman, Newgass & Co., 411 bales. Then we made another column beside it, and placed in that column, "Brought here by the Richmond from the wreck, 129 bales of these 411 of Lehman, Newgass & Co.," "By the Travis Wright, 210 bales of these 411 of Lehman, Newgass & Co." I know this, because all this cotton was received by the board of underwriters.

The insurance column in the manifest is taken from the statements of the various companies. We have memoranda in our office showing what merchants are insured by such and such companies. We found there Lehman, Newgass & Co. insured ¼ in the Crescent Mutual Insurance Co., and the other quarters in other companies. Payne, Dameron & Co. are insured in the Commercial. We found out that from themselves, or from the companies. When we do not know where such and
469 such parties are insured, we go to them and ask them about it and they tell us. The insurance companies settled the losses according to this column annexed to the manifest.

By Commissioner GURLEY:

Q. When a cargo is insured and is damaged, is it usual when it is brought here to be delivered to the underwriters?

A. It is usual, but sometimes, when it is only slightly damaged, it is delivered to the consignees, as usual; but where cotton is badly damaged, it is taken charge of by the board of underwriters.

Q. (By Mr. COHEN.) Have you any other paper that sheds further light on this case?

A. No, sir; I think this manifest and papers comprise the whole.

Q. Will you state, as secretary of the board, whether or not it is the custom and usage of the board, that from time to time they announce the amount for which they are willing to insure cotton at so much a bale, and that changes as the market changes?

A. Yes, sir; the board of underwriters refer this matter to a com-

470 mittee appointed by the cotton exchange, who on the first day of every month fix the valuation of cotton for that month, having reference to the market value as near as possible, and if any losses happen, it is settled upon that valuation. We published every month the rate at which we insured, that being considered the market value at that time.

Q. Mr. Fourchy states in his testimony that he insured the cotton of Airey & Co. at $100 a bale, in 1872, and Mr. Palfrey says that cotton was worth from 22¼ to 25 cents per pound at that time. Do you know what it was?

A. The value was not fixed at that time. We only established this rule, having it fixed by the cotton exchange subsequently.

Q. Do you know anything about the average weight of cotton at that time?

A. No, sir; not of my own knowledge.

Q. This cotton came from Camden?

A. Yes, sir; I think it came from the Ouachita River.

Q. You have no further to say on this subject?

A. No, sir.

471 Q. (By the COMMISSIONER.) Do I understand you to say that in 1872 there was no rate of insurable value fixed by the board of underwriters?

A. No, sir; no regular rate.

Q. Do you recollect the value of cotton at that time?

A. No, sir; I do not; it varied.

Attest:

J. W. GURLEY,
Com'r.

LLOYD R. COLEMAN, president of the Mechanics & Traders' Ins. Co., being sworn in that behalf, says:

Our company met with and paid some losses occasioned by the collision between the steamers Richmond and Sabine. As to the details, I can only state that we made a transcript of them from the books of the company here, marked A. That before the making of this transcript the clerks of the office looked about to find the bills of lading of each lot of cotton, but could not find them. As these papers were gathered together since this suit was commenced several years ago, and that it was possible that the parties to it may have taken them

472 away, I thought that such a transcript as this from the books of the company, signed by its proper officers, would be accepted. It is marked A. The document marked B is a copy of the manifest.

Some the accounts in the manifest are represented by other companies. For instance, persons sometimes have two or three companies to insure in, and I presumet herefore that the papers belonging to us have already been offered in evidence by the other companies.

The total amount of our losses as paid by us, prepared by the secretary of the company, is $1,208.23.

We never paid any of these claims until we were fully assured that it was a loss.

Libellants close case.

Attest:

J. W. GURLEY, *Comm'r.*

Submission of exceptions to report.—Extract from minutes of 6th March, 1876.

S. C. SHIRLEY ET ALS. *vs.* ST'R RICHMOND. } No. 7057.

The exceptions to the commissioner's report in this case were
473 called up. Present, Kennard, Howe & Prentiss, B. Egan & L. A. Sheldon. And after hearing argument, the court took time to advise.

Decree.—Extract from the judgment book.

Circuit court of the United States, fifth circuit and district of Louisiana, November term, 1875.

NEW ORLEANS, *Saturday, March 11th*, 1876.

Court met pursuant to adjournment.
Present, Hon. Wm. B. Woods, circuit judge.

SARAH C. SHIRLEY ET ALS. *vs.* STEAMER RICHMOND. } No. 7057.

This cause came on for trial on the commissioner's report assessing the damages sustained by the steamer Richmond by reason of the collision between said steamer and the Sabine. Present, John H. Kennard and L. A. Sheldon for the Richmond, B. Egan for the Sabine; and after hearing the argument of counsel, on consideration whereof, it is adjudged and decreed by the court that the exception to the report be overruled, said report confirmed and made the basis of the judg-
474 ment of the court, and that, accordingly, R. F. Fuller, Mrs. A. B. Selby, and her husband, N. C. Selby, and Sarah C. Shirley, by her agent and attorney John T. Shirley, owners of the steamer Sabine, as principals on the bond by them furnished on the 14th March, 1872, in pursuance to an order made by the admiralty court upon the cross-libel of the Richmond, requiring the owners of the Sabine to give bond in the sum of eight thousand dollars to respond in damages, be condemned in solido to pay the owners of the steamer Richmond the sum of seven thousand three hundred and ninety-two $\frac{60}{100}$ dollars as damages, and costs of suit.

It is further ordered and decreed that Charles Cavaroc, Achille Chiapella, Jules Tuyes, and Alfred Moulton, sureties on the aforesaid bond, be condemned to pay to the owners of said steamer Richmond the amount for which they respectively bound themselves, namely, Alfred Moulton, two thousand dollars; Charles Cavaroc, two thousand dollars; Jules Tuyes, two thousand dollars; and Achille Chiapella, two thousand dollars.

And it is further ordered that upon satisfaction either by the
475 principals or sureties of the amount awarded by this decree to the said owners of the steamer Richmond with costs, that thereupon said bond be cancelled and annulled.

Decree rendered March 11th, 1876.
Decree signed June 1st, 1876.
(Signed) W. B. WOODS, *Judge.*

Rule for a new trial.—Entered and filed March 15th, 1876.

Circuit court of the U. S.

SARAH C. SHIRLEY ET EL. *vs.* ST'M'R RICHMOND. } No. 7057.

Circuit court of the U. S.

MERCHANTS' MUTUAL INS. CO., *vs.* STRS. RICHMOND & SABINE. }

On motion of B. Egan and R. H. Marr, proctors for Sarah C. Shirley et als., libellants, in the first of the above causes, and also the sureties on their bond given to respond to the cross-libel on behalf of the claimants and owners of the Richmond, it is ordered, by the court, that Nat. S. Green and others, cross libellants, do show cause on Saturday, 25th day of March, 1876, at 11 a. m., why a new trial should not be granted by the court in this cause on the decree confirming the commissioner's report, on the following grounds:

476 I°. Because the judgment is contrary to the law and the evidence.

II°. Because the report of the commissioner which has been confirmed is manifestly erroneous both in law and fact.

Marshal's return.

Received March 15th, 1876, by the U. S. marshal, and on the 17th of March, 1876, served a copy hereof on Kennard, Howe & Prentiss by handing same to Howe, S. A. Sheldon, p'lly, M. M. Cohen, p'lly, A. Voorhies, personally.

(Signed) S. B. PACKARD, *U. S. Marshal,*
By S. W. REED, *Dy Marshal.*

Motion and order, report confirmed.—Extract from minutes of 25 March, 1876.

MERCHANT'S MUTUAL INS. CO. ET ALS. *vs.* ST'B'T SABINE ET ALS. } No. 7057.

On motion of M. M. Cohen and A. Voorhies, proctors for libellants, it is ordered that the defendants show cause on Saturday the 25th March, 1876, at 11 o'clock a. m., why the report of Mr. Commissioner Gurley in this case should not be approved and confirmed.

477 And the defendants being present, by their proctors, this motion was taken up, and after hearing the same, ordered that the said report be approved and confirmed.

Submission of rule for new trial.—Extract from minutes of 6th May, 1876.

SARAH C. SHIRLEY ET AL.
vs.
STR. RICHMOND. } 7057.

The rule for a new trial was called. B. Egan & R. H. Marr for movers; Kennard, Howe & Prentiss and L. A. Sheldon for defendants in rule. And after hearing argument the court took time to advise.

Order, rehearing refused.—Extract from minutes of 31 May, 1876.

SARAH C. SHIRLEY ET ALS.
vs.
ST'M'R RICHMOND. } No. 7057.

This cause came on to be heard, on the motion of the libellants for a rehearing, and was argued by counsel; on consideration whereof it is ordered that said motion be overruled and a rehearing refused, with costs.

478 *Order taxing fee of Comm'r Gurley.—Extract from minutes of 1st June, 1876.*

SARAH C. SHIRLEY & ALS.
vs.
ST'M'R RICHMOND. } No. 7057.

On motion of L. A. Sheldon, proctor for owners of st'm'r Richmond, and the proctors of the owners of the Sabine assenting thereto, it is ordered that J. W. Gurley, commissioner, to whom this cause was referred to ascertain and report the amount of damage sustained by the steamer Richmond in consequence of the collision, be allowed for his report therein the sum of three hundred dollars, and that the same be taxed and paid as costs.

Motion and order for appeal.—Entered and filed June 2d, 1876.

U. S. circuit court.

SARAH C. SHIRLEY ET ALS.
vs.
STR. RICHMOND. } No. 7057.

MERCHANTS' MUTUAL INSURANCE CO.
vs.
ST'M'RS RICHMOND & SABINE.

Consolidated cases.

479 On motion of B. Egan and R. H. Marr, proctors for Sarah C. Shirley, America B. Selby, wife of Nathaniel C. Selby, and her husband, Nathaniel C. Selby, and Richard F. Fuller, owners of the st'r Sabine, libellants in the first of the above entitled consolidated causes, and of Alfred Moulton, Jules Tuyes, Achille Chiapella, and Charles Cavaroc, sureties on the bond given by the above-named libellants, to respond to the

cross-libel filed by Nathaniel C. Green, John A. Boffinger, Theodore Laveille; Stillwell, Powell & Co., composed of Samuel L. Stillwell, Enoch Stillwell, and D. R. Powell; Carter & Conn, composed of Walker R. Carter and J. H. Conn, claimants of the st'r Richmond; and of M. M. Cohen and Albert Voorhies, proctors for the Merchants' Mutual Insurance Company, Mechanics' and Traders' Insurance Company, Factors' and Traders' Insurance Company, New Orleans Mutual Insurance Company, Sun Mutual Insurance Company, Home Mutual Insurance Company, New Orleans Mutual Insurance Association, Crescent Mu-
480 tual Insurance Company, Commercial Insurance Company, all duly and legally incorporated companies under the laws of the State of Louisiana, and domiciled in the city of New Orleans, libellants and intervening libellants, by subrogation to the claims of intervening libellants in the last of the above-entitled consolidated causes, and on suggesting to the court that they are informed and believe that there is error to their prejudice in the final decree rendered in the above cause, on the 19th April, 1875, signed on 15th May, 1875, and also on 11th of March, 1876, and signed on the 1st of June, 1876, that they are aggrieved by the said final decrees, and are desirous of taking an appeal therefrom with supersedeas to the honorable Supreme Court of the United States:

Therefore, it is ordered by the court that Sarah C. Shirley, America B. Selby, wife of Nathaniel C. Selby, and husband, Nathaniel C. Selby, Richard F. Fuller, owners of the st'r Sabine, libellants in the above entitled cause; Alfred Moulton, Jules Tuyes, Achille Chiapella, and Charles Cavaroc, sureties on the bond given by them to respond
481 to the damages claimed in the cross-libel; the Merchants' Mutual Insurance Company, Mechanics' & Traders' Insurance Company, Factors' & Traders' Insurance Company, New Orleans Mutual Insurance Company, Sun Mutual Insurance Company, Home Mutual Insurance Company, New Orleans Mutual Insurance Association, Crescent Mutual Insurance Company, Commercial Insurance Company, be allowed an appeal with supersedeas from the above final decrees, returnable in the Supreme Court of the United States on the second Monday in October, 1876, on giving bond and surety, conditioned according to law, in the sum of nine thousand dollars.

Motion and order as to appeal bond.—Entered and filed June 2d, 1876.

SARAH C. SHIRLEY ET ALS. *vs.* ST'R RICHMOND. } No. 7057.

MERCHANTS' MUT'L INS. CO. *vs.* ST'R' RICHMOND & SABINE.

Upon motion of Kennard, Howe & Prentiss, and L. A. Sheldon, attorneys for owners of steamer Richmond, and upon suggesting to the court that an order has been entered herein granting an appeal with a supersedeas to the owners of the Sabine et als., upon their filing
482 a bond in the sum of nine thousand dollars ($9,000.00), according to law, and upon suggesting to the court that your movers are entitled to test the solvency and sufficiency of whatever surety may be offered on the bond, and that such surety may not be offered until after the adjournment of this hon. court, it is ordered that whatever bond is

filed herein shall not operate as a supersedeas until the surety shall have been tested contradictorily with the appellees, and pronounced by the clerk of the circuit court as good and solvent.

Letters of E. T. Parker, adm'r, &c.—Filed September 21st, 1876.

STATE OF LOUISIANA:

Second district court for the parish of Orleans.

This shall certify to all whom it may concern that on the eighth day of June, in the year of our Lord one thousand eight hundred and seventy-six, and the hundred and first of the Independence of the United States of America, an application was made to the honorable judge of
483 the second district court for the parish of Orleans, by E. T. Parker, public administrator, praying that he might be appointed administrator of the succession of Mrs. Sarah C. Shirley, deceased.

Now know ye that E. T. Parker, public administrator, has been, and he is hereby, appointed administrator of the said succession, and that he has fulfilled all the requisites of the law.

Witness our hand and the seal of the said second district court this 20th day of September, in the year of our Lord one thousand eight hundred and seventy-six, and the one hundred first of the Independence of the United States.

[L. S.] (Signed) A. L. TISSOT, *Judge.*

A true copy.
(Signed) JULES VIENNE, *D'y Clk.*

Petition for appeal and order.—Filed November 2d, 1876.

Consolidated cases.

SARAH C. SHIRLEY ET ALS. *vs.* STR. RICHMOND. } No. 7057.

MERCHANTS' MUTUAL INSURANCE COMPANY *vs.* ST'M'RS RICHMOND & SABINE. }

484 To the honorable the circuit court of the United States for the fifth circuit and district of Louisiana:

The petition of Edward T. Parker, public administrator, duly appointed and qualified as administrator of the succession of the late Sarah C. Shirley, America B. Selby, wife of Nathaniel C. Selby, and her husband, Nathaniel C. Selby, and Richard Fontaine Fuller, owners of the str. Sabine, libellants in the first of the above entitled consolidated causes, and of the Merchants' Mutual Insurance Company, Mechanics' and Traders' Insurance Company, Factors' and Traders' Insurance Company, New Orleans Mutual Insurance Company, Sun Mutual Insurance Company, New Orleans Mutual Insurance Association, Crescent Mutual Insurance Company, Commercial Insurance Company, libellants and intervening libellants in the above consolidated causes, all duly incorporated companies under the laws of the State of Louisiana, and domiciled in the city of New Orleans, respectfully represent that they are informed and believe that there is error to their prejudice in the final judgments or decrees rendered in the above consolidated causes on the 19th of April 1875, and signed on the 15th of May, 1875, and also that rendered

485 on the 11th of March, 1876, and signed on the 1st of June, 1876; also that rendered on 25th March, 1876, and all other judgments and decrees rendered in said causes; that they are aggrieved by said final judgments or decrees, and are desirous of taking an appeal therefrom to the honorable Supreme court of the United States.

Wherefore petitioners pray that they be allowed an appeal from the above-mentioned final judgments or decrees, returnable in the Supreme Court of the United States on the 2d Monday in October next, on giving bond in the sum of five hundred dollars ($500), and that Nathaniel S. Green, John A. Boffinger, Theodore Laville; Stillwell Powell & Co., composed of Samuel L. Stillwell, Enoch Stillwell, and D. R. Powell; Carter & Conn, composed of Walker R. Carter and J. H. Conn, claimants and owners of the steamboat Richmond, be cited to appear and answef this appeal, and petitioners pray for general relief.

(Signed) BENTINCK EGAN & R. H. MARR,
Proctors for Libellants in the first of the above Consolidated Causes.

An appeal is allowed in this case, as prayed for, returnable to
486 the Supreme Court of the United States on the second Monday of October, 1877, the appellants giving bond in the sum of five hundred dollars ($500), with good and solvent security, conditioned as the law directs.

(Signed) W. B. WOODS,
U. S. Judge.

Order, surety on appeal bond accepted.—Extract from minutes of 16*th Dec'r*, 1876.

SARAH C. SHIRLEY & AL.
vs.
STR. RICHMOND. } No. 7057.

MERCHANTS' MUTUAL INS. CO.
vs.
STRS. RICHMOND & SABINE.

After hearing the evidence of Geo. Mather, the counsel for the steamer Richmond made no objection to said Geo. Mather as surety on the appeal bond in this cause.

Appeal bond.—Filed December 16*th*, 1876.

UNITED STATES OF AMERICA:

Know all men by these presents that we, Edward T. Parker, administrator of succession of Sarah C. Shirley, America B.
487 Selby, wife of Nathaniel C. Selby, and Nathaniel C. Selby, her husband, and Richard F. Fuller, owners of st'r Sabine, Merchants' Mutual Insurance Company, Mechanics' and Traders' Insurance Co., Factors' and Traders' Insurance Co., New Orleans Mutual Insurance Co., Sun Mutual Insurance Co., New Orleans Insurance Association, Crescent Mutual Insurance Co., and Commercial Insurance Company, libellants and intervening libellants, as principals, and George Mather, as surety, are held and firmly bound, jointly and severally, unto Nathaniel S. Green, John N. Boffinger, Stillwell, Powell & Co., composed of Samuel L. Stillwell, Enoch Stillwell, D. R. Powell, Carter & Conn, composed of Walker R. Carter & J. H. Conn, & Theodore Laville, in the sum of five hundred dollars, lawful money of

the United States of America, to be paid to the said Nathaniel S. Green, John N. Boffinger, Stillwell, Powell & Co., composed of Samuel L. Stillwell, Enoch Stillwell, & D. R. Powell, Carter & Conn, composed of Walker R. Conn and J. H. Conn, Theodore Laville, heirs, executors, administrators, and assigns, of which payment, well and truly to be made, we bind ourselves, and each of us by himself, and each of our
488 heirs, executors, and administrators, firmly by these presents. Sealed with our seals and dated the 15th day of December, in the year of our Lord eighteen hundred and seventy-six.

Whereas Edward T. Parker, administrator of succession of Sarah C. Shirley, America B. Selby, wife of Nathaniel C. Selby, and her husband, Nathaniel C. Selby, and Richard F. Fuller, owners of the st'r Sabine, Merchants' Mutual Insurance Company, Factors' & Traders' Insurance Co., Mechanics' & Traders' Insurance Co., New Orleans Mutual Insurance Co., Sun Mutual Insurance Co., New Orleans Mutual Insurance Association, Crescent Mutual Insurance Company, and Commercial Insurance Company have this day presented a petition to the honorable the circuit court of the United States for the fifth circuit, holding sessions in and for the district of Louisiana, praying for an appeal.

Now, the condition of the above obligation is that we, the above bounden Edward T. Parker, administrator of succession of Sarah C. Shirley, America B. Selby, & her husband, Nathaniel C Selby, & Richard F. Fuller, owners of the st'r Sabine, Merchants' Mutual In-
489 surance Company, Mechanics' & Traders' Insurance Co., Factors' & Traders' Insurance Company, New Orleans Mutual Insurance Co., Sun Mutual Insurance Co., New Orleans Mutual Insurance Association, Crescent Mutual Insurance Company, and Commercial Insurance Company, libellants and intervening libellants, shall prosecute their appeal and shall satisfy whatever judgment may be rendered against them, or that the same shall be satisfied by the proceeds of the sale of their estate, real and personal, otherwise that the said George Mather, surety, shall be liable in their place.

(Signed) EDWARD T. PARKER, *Adm'r.*
AMERICA B. SELBY
& husband N. C. SELBY, &
RICHARD F. FULLER,
Owners of St'r Sabine.,
By their proctor BENTINCK EGAN. [L. S.]

(Signed) GEO. MATHER. [L. S.]
" CRESCENT MU. INS. CO., [L. S.]
Pr. THOS. A. ADAMS, *Prest.*
" NEW ORLEANS INS'CE COMP., [L. S.]
Pr. I. TUYES, *Pt.*
" N. O. INS'CE ASSO., [L. S.]
Pr. M. MUSSON, *Pt.*
" SUN MUT. IN. CO., [L. S.]
Pr. JAMES I. DAY, *Pt.*
" N. O. COMMERCIAL INS CO., [L. S.]
Pr. M. J. SLATOR, *V. P.*
" FACTORS' & TRADERS' INS. CO., [L. S.]
ED. A. PALFREY, *Pt.*
" MECHANICS' & TRADERS' INS. COMP'Y, [L. S.]
Pr. LLOYD R. COLEMAN.
" MERCHANTS' MUTUAL INS. CO., [L. S.]
Pr. P. FOURCHY, *Pt.*

490 *Extract from Volume 2, printed matter.*

U. S. district court. In admiralty.

MERCHANTS' MUTUAL INS. CO., INTERVENORS, }
vs. } No. 9823.
STEAMBOATS SABINE AND RICHMOND. }

Testimony taken on behalf of the libellants and intervenors before U. S. Commissioner Loew, in the clerk's office, May 7th, 1872.

Present, M. M. Cohen and A. Voorhies for intervenors; R. H. Marr, for steamer Sabine, and Given Campbell for steamer Richmond.

DANIEL R. DAVIS sworn for intervenors.

Examined by Mr. COHEN:

Q. Where do you live?
A. In St. Louis.
Q. What is your business?
A. Steamboating; a first and second mate most of the time.
Q. How long have you been steamboating?
A. I came there in 1852; I think about twenty years.
Q. Were you on board of the steamboat Richmond at the time of the collision with the Sabine?
A. Yes, sir.
Q. In what capacity?
A. As second mate.
491 Q. At the time of the collision where were you?
A. On the roof.
Q. Who else was on the roof with you?
A. No person at all.
Q. Where was the captain of the Richmond at that time?
A. I suppose he was asleep.
Q. Did you see him?
A. I did not see him.
Q. Where was the first mate?
A. The first mate told me he was going down to take a rest; he was not in sight. He told me afterwards he was sitting in a chair in the hall. That was not in the cabin; down below. I did not see him; he was not in sight.
Q. How long before the collision was it that you saw him?
A. It could not have been over twenty minutes. I just left the sugar pile and ran through the Twelve Mile Point.
Q. Who was the first person that you saw when you came down from the roof.
A. Well, when I came down I saw about thirty or forty bales.
Q. I do not speak about the cotton; what person did you see?
A. The first I saw were the deck hands, and I told them to take
492 the cotton and stow it away from the larboard to the starboard.
Q. When was it that you came down from the roof?
A. Just as soon as I could get down; I got back to the steps and came down.
Q. But was it before or after the collision?
A. After the boats came together I came down on deck to see what damage was done.

Q. How long after the collision was it that you came down from the roof?

A. I suppose about a minute or two minutes; it would not take over that length of time to come down.

Q. Do you remember the name of any person that you saw when you came down from the roof?

A. I do not know that I do; only the deck hands that were there, and this cotton I told them to stow away.

Q. Did you know any one of them?

A. I knew Mike Walsh—he was a deck hand—and Tap Kane.

Q. Do you remember the name of any other deck hand that you saw?

A. No, sir; I do not know any other; the cotton fell off the
493 Sabine on the larboard side of the Richmond, and I told them to take it over on the starboard side and to trim the boat up.

Q. Did they do it?

A. Yes, sir; in good shape.

Q. Do you know anything about the map of the river; was it shown to you showing the position of the boats at the time of the accident?

A. I saw a map of the river, drawn out in the texas of the Richmond by Charlie Duffey and Frank Cayton, pilots; that is the only one I saw.

Q. Do you know anything more about the map; who showed it to you?

A. Nobody showed it to me; I saw it drawn off in the texas. Mr. Coates drew off a map with a pencil, and I told him it was not in good shape; the location of the boats that he had did not suit me.

Q. What fault did you find with the location of the boats; what was their true location?

A. Well, on the map I saw yesterday—some of the pilots drew it—it appears to me to have corresponded with the map I saw there.

Q. What was Mr. Coates?

A. First mate of the boat.

Q. Was he there at the time of the collision?

494 A. No, sir; he told me he did not see it; he told me he did not see it, and I did not see him.

Q. How did he draw the map if he did not see the collision?

A. Well, I saw the map that was drawn off by the pilots in the texas; they had the map there and the shape of the river; that is the only map I saw.

Q. Look at this map marked Exhibit X, and see if it does not represent the position of the boats; is it correct?

(Witness examines the map marked X, and says:)

A. No, sir; that does not represent the position of the boats.

Q. How ought it to be?

A. The Richmond was coming up about a mile and a half under the bend below Twelve Mile Point, on the left hand side going up, and we collided about a mile above Nine *Nine* Mile Point, on the right hand side.

Q. Did the mate tell you how he made the map that he did make; whether he made it from the state of the collision at the time, or how?

A. He drew it out according to his own knowledge and judg-
495 ment; after he made it, he told me about the shape of the river and how the boats were fixed; I asked him, "How do you know? Why, Mr. Coates, you said you were sitting down in a chair and did not see it at all."

By Mr. CAMPBELL:

Q. Do you mean that Mr. Coates was asleep at the time?

A. No, sir; he told me he did not see it.

Q. Did you not say to him then "How do you know? You did not see it"?

A. Yes, sir—"How do you know when you did not see it?"

By Mr. COHEN:

Q. What did he answer to that question?

A. Well, he went on to make some kind of shape of the river; there was very little more said; we left the office.

Q. When he said he made this with his knowledge and judgment, what did he mean?

A. Well, the same as I did; I have got no license for piloting; I recollect he drew it from his knowledge of the river; I, myself, never said that Mr. Coates made a map; but I seen him draw it, the shape of the river, with a pencil.

Cross-examined by Mr. MARR on behalf of the Sabine:

496 Q. At the time this collision occurred, whose watch was it on the Richmond?

A. Mr. Coates was on the watch; I came off at one o'clock and had been on the roof.

Q. Was it Mr. Coates' watch at that time?

A. Yes, sir.

Q. Where was Mr. Coates?

A. Well, he told me he was sitting down in the hall in a chair; I did not see him sitting there; he told me so.

Q. Did he tell you he was asleep?

A. No, sir; he did not tell me he was asleep, but that he was sitting down there when the boats came together and came out to see what was the matter.

Q. Did you ever tell anybody that Mr. Coates was asleep at the time *of* this collision occurred?

A. I do not know that I did.

Q. Do you know whether you did or not?

A. No, sir; I never told anybody from my personal knowledge; I did not see that he was asleep, only from what he said down in the cabin.

Q. What part of the cabin?

A. In the forward part of the office.

497 Q. Are you acquainted with the river in this locality?

A. Well, I have been steamboating from St. Louis to New Orleans a long while; I am not a pilot, but I know the shape of the river and the land pretty well.

Q. Were you awake and up at daylight on the morning of the collision?

A. Yes, sir.

Q. Where were the boats at that time; how far were you below Twelve Mile Point?

Q. We were on one side of the river as close to the shore as we could go.

Q. How far were you below Twelve Mile Point when daylight came in the morning?

A. I did not look to see; I cannot answer that question; I don't know.

Q. Do you know which side of the river the boats were on?

A. No, sir; I could not say that I do; we towed the Sabine into the shore where they took the cotton off her.

Q. And you do not know which side of the river it was on; do you know how far above or below Twelve Mile Point?

A. It was below.

Q. How far?

A. Two miles.

Q. Do you know that after daylight the boats floated down the
498 river where the Sabine first grounded?

A. That is what I say; I do not know how far it was below Twelve Mile Point.

Q. I ask you after daylight in the morning did the boats float down the river from the place where the Sabine came in collision?

A. Well, I suppose they did; I do not know; I could not swear positively whether they did or not.

Q. Do you know the Sabine rested there until she was raised by the wreckers?

A. No, sir; I do not know.

Q. That is, you do not know how far she lay below Twelve Mile Point when the wreckers came to her?

A. No, sir.

Q. Do you know whether the Sabine and the Richmond, at daylight in the morning, were lying on the same side of the river on which the collision occurred?

A. No, sir; I do not.

Q. Then you do not know on which side of the river the collision occurred?

A. Yes, sir; it occurred on the right hand side, going up.

Q. And you lay alongside of the Sabine all that day and do not know which side you were?

499 A. I never looked.

Q. You never looked to see on which side of the river you were?

A. No, sir; I was busy stowing the cotton; I suppose if I paid any attention I would have known.

Q. How far below Twelve Mile Point did the Richmond make the crossing to Twelve Mile Point?

A. Well it makes the cross-over from Nine Mile Point. The whole distance, I suppose, is about three miles.

Q. How far did she make the crossing over the river?

A. Well, I don't know how far she was under Twelve Mile Point; she was almost a mile and a half below the Point.

Q. And you say that is where the collision occurred?

A. Well, no man can swear to the distance on water, but I think it was that; I looked out at the shore and seen it.

Q. How far do you think you were from the shore when it occurred?

A. Well, I think it was two hundred and fifty or two hundred yards, maybe more or less; I cannot say what distance.

500 Q. How many whistles did you hear from the Sabine?

A. I heard one whistle.

Q. Was that one blast or two?

A. I did not hear any more.

Q. How far were the boats apart when you heard that whistle?

A. They were a good distance apart when I walked out on the roof

and heard the whistle; they must have been a quarter of a mile; I cannot say for certain, but they were some distance apart.

Q. Did your boat answer the whistle?

A. Yes, sir.

Q. Right off?

A. We blew one whistle I heard, and the other boat blew another whistle. That is all the whistle I heard blow.

Q. Your boat blew but one?

A. She blew one whistle; that is, the Richmond did.

Q. And the Sabine blew one whistle once?

A. That is all I heard.

Q. Was that before or after the second whistle blew from your boat?

A. Well, it was after we blew the first; if we blew she blew.

Q. You think the boats, then, were a quarter of a mile apart?

A. Well, as far as I can judge.

501 Q. How far were the boats apart when you blew your last whistle?

A. I do not know.

Q. But still you heard no blow from the Sabine?

A. Well, she might have blown, but I did not hear it.

Q. How many watches on the Richmond—the captain and mate?

A. The second mate is supposed to stand the time of one watch.

Q. When does the captain stand watch?

A. When he pleases; I suppose he is supposed to stay up till one o'clock, and the second mate is supposed to stand his watch. At one o'clock the first mate comes on, and the second mate stands till one o'clock, and the captain stays up with him.

Q. When the captain and second mate stand watch where does the second mate stay?

A. He is supposed to stay on the roof forward of the bell.

Q. Where does the captain stay?

A. Well, sometimes down in the office and sometimes in his room; he did not stand watch on the roof.

Q. I want to know what the captain of this boat did.

A. Well, he was not on the roof anyhow.

Q. Nor the mate was not on the roof?

A. No, sir.

502 Q. You were not on the watch?

A. No, sir; but I came out to see what was the matter.

Q. Had you been in the room?

A. Well, sir, I came out after I left the sugar pile to get a cup of coffee, and after the whistle blew I came out and stayed there until the boats came together.

Q. But when did you leave the sugar pile that night?

A. About half past two.

Q. Then it was not your watch?

A. No, sir; I had stood a watch.

Q. It was the mate's watch, then, when you left the sugar pile?

A. Yes, sir.

Q. And you had been at work getting in sugar and then went up stairs to get a cup of coffee?

A. Yes, sir.

Q. And then went into the room to go to bed?

A. When this whistle blew I was not in bed.

Q. Before you heard the whistle, after covering the sugar, what were you doing?

A. I was covering the sugar and then went to get a cup of coffee, and then went into my room.

Q. That is the detail of all you did after leaving the sugar pile?

503 A. Yes, sir.

Q. Can you tell which boat ran into the other?

A. I cannot tell; when I came down on the deck there was thirty or forty bales of cotton thrown over from the Sabine to the Richmond, and my object then was to see what could be done.

Q. Where about did you set to cover up the sugar and where did you set to cover up the watches?

A. I took them back in the engine-room.

Q. Where was the sugar that you had to cover up?

A. Forward.

Q. Where was it?

A. On the main deck forward.

Q. Right after the jackstaff?

A. Yes, sir; forward of the steps—forward of the derrick and the forecastle.

Q. Then you went up to get a cup of coffee?

A. No sir; I went up forward of the steps.

Q. Can you tell whether the Sabine was backing or going ahead when this collision occurred?

504 A. Well, she must have been backing, because the shape they came together in was like the letter A. She must have swung clear around. The Richmond is a low-pressure boat, and you cannot tell from the roof what she is doing.

Q. Did you hear any engine bells ring on the Richmond that night?

A. Yes, sir; I heard the engine bells ring.

Q. When?

A. When the last wistle blowed.

Q. What bells were they that you heard ring?

A. Well, the bell to stop her. They had to stop her before the' backed her.

Q. Where were you?

A. I was over away between the chimney and the forward end of the skylight on the roof, on the larboard-side.

Q. You had gotten your cup of coffee, heard the whistle, and then walked forward?

A. Yes, sir.

Q. After that you heard the engine bells ring?

A. Yes, sir.

Q. Was there a gong?

A. I just heard the bell-rope lines rattle in the bell-rope box; I supposed it was the bell. She stopped. I did not hear any gong.

Q. You heard neither the bell nor the gong?

505 A. No, sir; but the rattling in the bell-rope *bell*. I could not say whether I heard the bell or gong ring distinctly; but I have heard it many a time.

Q. Then do you know that the engines of the Richmond were not in motion at the time of this collision?

A. No, sir; I do not know that they were; I did not hear the bells ring, nor did I hear the gong; but I heard the wire rattling in the bell-rope box. I heard the engine bell ring, as I supposed, to stop her.

Q. That is, you heard the rope?

A. Yes, sir; the lines rattling. I supposed the pilot rang the bell to stop her.

Q. Where were you standing when the two boats struck?

A. Forward on the starboard side, about abreast of the bell.
Q. Did you look then to see the shore?
A. Yes, sir; I looked over to the other shore.
Q. How far were you from the right-hand side going up?
A. I do not think I was over one hundred and fifty yards. We were tolerably close to the bank under Twelve Mile Point.
Q. Was the Sabine close to the shore?
A. Well, she was a kind of quartering on our left.
506 Q. Then the Sabine was nearer to the shore than you were when you struck?
A. No, sir; we were closer to the shore.
Q. She was further out?
A. Yes; we must have been closer in, because she swung and struck our larboard side.
Q. Whereabouts does the box run down that the bell rope works in that you heard rattle?
A. Well, I could not tell you the room for my life. It runs down aft of the chimneys, I think; but I never seen the bell-rope box in my life, but I heard it rattle. You can only tell below what the boat is doing by the escape pipe; but if you stay on the roof it is as silent as a grave yard. Sometimes you cannot hear except the engine bell rings, but I cannot say that we did hear it that night. I think it goes down right aft of the chimneys. It did not go down through my room. It is a room off mine that the bell rope goes down. I never did look. The chimneys stand away amidships, and the pilot-house stands nearly between the chimneys.
Q. Do you know that that bell-rope box goes down through any room at all?
A. No, sir; I don't know that it does; but I think it goes down
507 through a room. I never saw it until I was outside of the texas.
Q. How far aft of the place that you were standing is it that this bell box goes down?
A. I do not know. It is about the distance of that wall (the office wall) from here.
Mr. MARR. That is about twenty feet.

Cross examined by Mr. CAMPBELL on behalf of the Richmond:

Q. You spoke of somebody showing you a map of the river yesterday. Who showed it to you?
A. I saw a map; I don't know who made it, but it looked something like the one that Frank Cayton and Charlie Duffy drew out.
Q. Who showed it to you?
A. I do not know.
Q. Where was it?
A. In an office down there.
Q. Where?
A. In Mr. Cohen's office; he showed me a map of the river, and asked me if it was correct.
Q. You being the second mate of the Richmond and knew about this, how far was it above Nine Mile Point that the Richmond commenced to make her quartering across the river to come under Twelve Mile Point?
508 A. I do not know; she was in the bend when she blew her whistle.
Q. Under Twelve Mile Point?
A. Yes, sir.
Q. Quartering in towards the shore?

A. No, sir; she was lying round parallel towards the shore; a kind of quartering out round the point.

Q. Was she not very nearly a mile from the Sabine when she blew her first whistle?

A. Well, the Sabine was coming round crossing, and you could not see.

Q. How far was the Richmond below the point when she blew the whistle?

A. A mile and a half.

Q. Coming up the shore?

A. Yes, sir; the right-hand shore.

Q. Do you know how far from the shore she was when she blew her whistle?

A. Well, from the looks of the shore, I think one hundred and fifty yards.

Q. Did she keep her straight course up the river?

A. Well, she seemed to be quartering out to make round the point.

Q. Was that her proper course in the river?

A. Yes, sir; they go that way coming up.

509 Q. What was the usual way for a downward steamboat?

A. Round the point, I suppose.

Q. What was the position of the Sabine in the river? How was she swung at the time this collision occurred, or how was her head pointing or her stern at the time they came together?

A. The Sabine seemed to be quartering in towards the shore and the Richmond out from it, forming the shape of like the two letters "A," and the larboard side of the Richmond struck the starboard side of the Sabine. When she struck they lapped together.

Q. How was her stern?

A. The Sabine was making a little out, and the bow quartering in, and the Richmond was pointing out.

Q. But after they swung alongside?

A. After they struck, they both swung together.

Q. How were the sterns?

A. Down stream, a little quartering out from the shore.

Q. Did not it look to you as if the Sabine was trying to come between the Richmond and the right hand bank coming up?

A. Well, I do not know whether she was or not. It seemed to

510 me as if backing had thrown her stern down stream.

Q. She was swinging and quartering down stream, with her head towards the shore?

A. It seemed to me as if backing to throw her stern down-stream, and that throwed her head towards the shore.

Q. Was she occupying that quartering position with her head inshore when they came together?

A. Yes, sir; her head was pointing to the shore and the stern pointing and quartering across the river. The shape of the boats when they came together was like the letter A (witness forms the position of the boats by an angle of his two fingers).

Q. Might not there have been bells rung before that one that you heard by the ropes, and you not know it?

A. No, sir; I do not think there was any bell rung, because it was such a short time. Our whistle blowed, and when she (the Sabine) blowed the second time, the Richmond blew; then the bells rung. I say the bell rung because I heard the ropes, and they cannot ring the bells without using them. I did not hear the bell ring nor the

511 gong, but the wires rattling in the bell-rope box. The Sabine was

coming in right on to us and we blowed. I heard the wires rattling in the bell-rope box. If I paid particular attention I would have heard the bell ring; I heard it many a time.

Q. How long was it, do you remember, from the time of your going to bed until you heard the first whistle?

A. I did not stay in there; I came right out.

Q. How was the wind blowing that night?

A. There was very little. It commenced a kind of drizzling rain when I left the sugar pile. There was very little wind blowing at all.

Q. How was it blowing at the time of the collision?

A. I do not know that there was any wind at all of any note; it was not warm, though.

Q. Did not you hear the Sabine blow two whistles, one after the other; that is, as the signal for the larboard?

A. I do not recollect only one.

Q. Which side of the Richmond did the cotton fall on?

A. On the larboard forward quarter.

Q. That is the side that struck the Sabine?

512 A. Yes, sir; we struck her on the starboard side and the cotton fell over on the larboard forward quarter of the Richmond, on the guard, I think; thirty or forty bales.

Q. You said that the Sabine came flanking in; by that you mean quartering in?

A. Well, I mean that she was in that position; I do not know whether you call it flanking or not.

Q. A sort of broadside with the river?

A. Well, not exactly broadside; she was quartering head up-stream and stern down; quartering into the shore like. That is the position we came together in, as near as I could shape out, or any other man in the world.

Q. Did you have good pilots on the Richmond?

A. Well, sir, they are supposed to be first-class. I have been on boats with both of them. They have got licenses and are supposed to be as good as any other. I was on boats with Charlie Duffey and Frank Cayton. They have met with as many accidents on the river as any I recollect. Cayton is said to be a good pilot.

Q. About Mr. Coates, do you know him well?

A. Yes, sir; I know the gentleman very well.

513 Q. Do you know whether he is a competent mate or not?

A. Yes, sir; I think he is a good mate.

Q. Is he a careful, attentive man to his business?

A. Yes, sir; I think he is a good man; a careful, attentive man. I could not say anything to the contrary. I know the man a long time.

Q. Might not somebody be on the hurricane roof and you not see them?

A. No, sir; there was nobody there at all.

Q. You were an officer on the boat at the time?

A. Yes, sir; I was second mate on her.

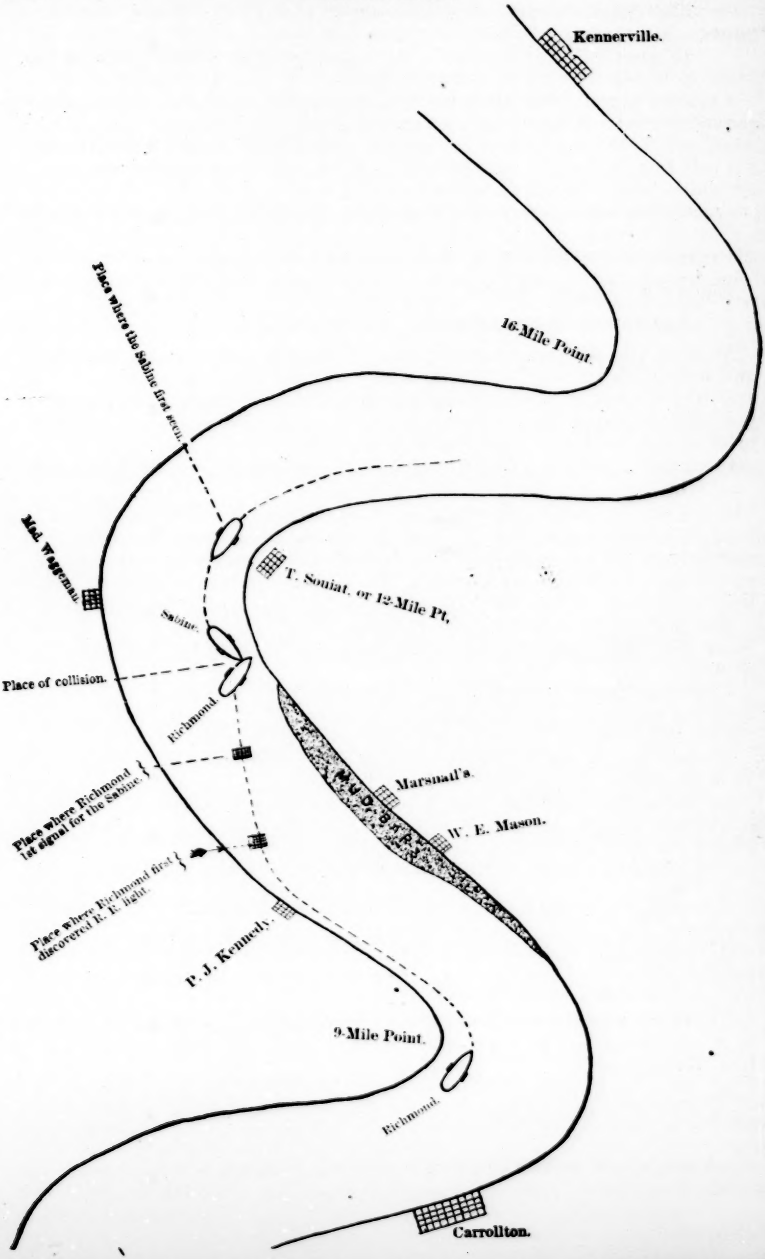
Re-examined by Mr. COHEN for libellants and intervenors:

(Witness being shown a map, marked XXX, and hereto annexed, says that it looks like the same one that had been shown to him by the pilots in the texas.)

Q. Is the position of the Sabine in this map marked XXX, now shown to you, correct or incorrect?

A. She (the Sabine) was coming round the point heading into the right-hand shore, parallel round to it, and the Richmond was going par-

514 *Exhibit XXX.*



allel with the right hand shore, a little quartering out to the left. The diagram of the river is good enough; it looks crooked on paper.

(Signed) DANIEL R. DAVIS.

I hereby certify that the above testimony of Daniel R. Davis was reported stenographically by me, and is a true record of the spoken word.

HENRY LANGFORD.
Phonographer.

Testimony taken before K. Loew, U. S. Commissioner, May 3d, 1872.

Present, M. M. Cohen, A. Voorhies, and B. Egan.

MICHAEL WALSH sworn.

Examined by Mr. COHEN:

Was on the Richmond at the time of the collision; was a deck hand; and man with the name of Pat Kane was forward on watch with several black men. I was forward on the starboard side; can't say where the officers of the boat were at the time; somewhere about ten minutes prior to the collision, perhaps half an hour, the second mate told the men to cover up the freight. The name of the first mate is Corelts, I believe; for the last fifteen years I have heard him called Bob
516 Corelts; can't tell where he was at time of collision; about half an hour before the collision I saw this first mate, perhaps three-quarters of an hour before; saw him on the forecastle go up stairs; I could see no officers forward on the Richmond at the time of the collision. If any of the officers had been there, I would have seen them. The last time I had seen the captain, Mr. Green, was at the elevator, when they were loading the Richmond; saw him for the last time in the cabin.

The collision happened about two o'clock in the morning; we were backing out from the elevator at twelve o'clock; saw the captain for the last time about 2 hours before we backed out from the elevator.

I never heard the captain's voice shortly before the collision; had he spoken shortly before the collision I would have heard him; the last time before the collision that I heard the voice of the first mate, must have been nearly an hour; four or five minutes after the collision, I heard the first mate halloo to the watchman.

Being asked, "Why did you not give your evidence in this case
517 before, when the other witnesses were examined," says: It seems I was not needed.

Q. From what does it seem to you you were not needed?
A. Can't say.

Examined by Mr. EGAN:

Q. What was the course of the Richmond shortly before the collision?
A. Running up the right-hand shore; can't tell how far she was below Waggaman's.
Q. Had the Richmond a proper watch at the time of collision?
A. The first mate's place was on the roof, and he was not there.

M. WALSH.

Sworn to and subscribed before me this 3d May, 1872.

K. LOEW, *U. S. C.*

D. W. ENSMINGER, sworn, says:

I was one of the pilots of the Sabine; was in the pilot-house at the time of the collision between the Sabine and the Richmond; my partner was on watch; I gave my testimony in the case.

Being shown map X, and asked whether it represented that section of the river embracing Twelve and Nine Mile Point, says:

518 A. Yes, it does; it is a correct representation of the locality of the river. When the Richmond came in sight of the Sabine on the night of the collision, the Sabine was at A, and the Richmond at B. The Sabine was a little nearer to the left-hand shore than is shown in plan X; the two vessels were then about one mile apart. The Richmond was well in the bend nearer Waggaman's. At the time of the collision, the vessels were in the position C and D, but a little nearer to the left-hand-point shore coming down. The Richmond is more than double the size of the Sabine. The boats as shown on the map X are a little disproportionate to each other, and the size of the river.

D. W. ENSMINGER.

Sworn to and subscribed before me this 3d May, 1872.

K. LOEW, *U. S. C.*

Testimony for libellants, taken April 30, 1872, before K. Loew, U. S. Commissioner.

Present, A. Voorhies and M. M. Cohen, for libellants; B. Egan for claimants steamboat Sabine, and Given Campbell for steamboat Richmond.

O. F. VALLETTE, being duly sworn, says:

519 Am a shipwright and shipbuilder. The Vallette Dry Dock Company is under my charge since she was built, about six years. Have the business about thirty years. Have seen the Sabine since her collision with the Richmond; saw her the day before she was sold; examined critically the place where the collision took place on the Sabine, because I had to repair her, and I did repair her. She was cut right down on the starboard bow to within two planks from the keel; those planks remained; they were good; she was struck as appears from line running from A to B on diagram O.

If it had not been for the cotton on the bow of the Sabine she would have been cut plumb through; the cotton was the only thing that prevented it, that I could see.

Letter D on diagram O represents the deck, and letters E and F the stem of the Richmond that made the cut from B to A. Letter A is about the center of the boat, and B is the outside of the guard; there are probably ten feet between B and C, and about twelve feet between A and C.

Cross-examined by Mr. EGAN:

520 The cut on the deck went as far as the center of the boat. The boat itself did not go as far, but I suppose that the gearing of the capstan was broken by the broken timbers. The capstan was right in the center; the engine and gearing was to the port of the center. This engine worked the capstan.

This cut extended from the top to the bottom, as described in my direct examination; two planks from next to the keel; that is, two planks, twelve inches each.

The cut was as wide as represented by letters G and H on diagram O, and of about the shape formed by the two lines running from letters G and H and converging on letter A. The cut, apparently, was made by the stem of a boat. I account for it not entering further at the bottom than at the top, to the curvature of the stem.

Cross-examined by Mr. CAMPBELL:

Q. If the Richmond had struck the Sabine, as you say, would it not have carried away the chock of the Sabine forward of the cut, on the starboard side?

A. Yes, sir; when I saw the boat that part of it was carried away as far as the center; I saw a part of it lying on the deck, by the center; I mean the stem.

Q. Suppose immediately after the accident you had seen the
521 Sabine with her chock perfect, forward of the cut on the starboard side, could you then have made up your mind that the blow was made as indicated in your direct examination?

A. No, sir; but the portion of the chock is here now, showing that it was struck and broken by the collision. When I saw the boat there was no shock in position forward of the cut on the starboard bow.

Have never seen the stem of the Richmond, but suppose it is just like the stem of other boats; don't know how much its stem rakes of my own knowledge.

The bottom planks of the Sabine were not broken clear to her kelson: it was broken to within two streaks. The engine that works the capstan is not broken; don't know its size; but the gearing was broken.

It cost to repair the Sabine and put her in perfect condition between $3,500 and $4,000. She is as good as she has ever been. I could not repair her for any one else for less than $4,500.

O. F. VALLETTE.

Sworn to and subscribed before me April 30th, 1872.

K. LOEW,
U. S. C.

522 UNITED STATES OF AMERICA:

Circuit court of the United States, fifth circuit and district of Louisiana.

CLERK'S OFFICE.

I, Francis A. Woolley, clerk of the circuit court of the United States for the fifth circuit and district of Louisiana, do hereby certify that the foregoing 521 pages manuscript, together with the 548 pages printed matter, which, by direction of the proctor for the appellants and for the purpose of saving costs, is hereto attached and made a part hereof, as well as the 3 diagrams identified with depositions of J. McHaffie & J. H. Lynch, contain and form a full, complete, true, and perfect transcript of the record and proceedings had, together with all the evidence adduced on the trial of the consolidated cases of Sarah C. Shirley et als. vs. St'r Sabine, and Merchants' Mutual Ins. Co. vs. St'rs Sabine & Richmond, No. 7057 of the docket, with the exception of the exhibits referred to in testimony of P. Fourchy and others, taken before Comm'r Gurley, on the question of damages sustained by the various ins'ce companies by reason of the collision between the st'rs Sabine and Richmond, filed in this court Dec. 6th, '75, which are not copied, no opposition having been made to the comm'r's report on said question of damages; and with the further exception of plans X & Y and seven photographs, filed in this court Nov'r 3d, '73, which, by direction of said proctor for appellants,

accompany this transcript in original as part thereof; and I further certify that original diagram A, referred to in clerk's certificate to transcript of record from the U. S. district court, is lost and cannot be found after due & diligent search made.

Witness my hand and the seal of said court at the city of New Orleans, this 25th day of September, A. D. 1877.

[SEAL.] F. A. WOOLFLEY,
Clerk.

I, Wm. B. Woods, United States judge for the district of Louisiana, do certify that Francis A. Woolfley, whose name is signed to the above certificate as clerk of the circuit court of the United States for the fifth circuit and district of Louisiana, was, at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand at the city of New Orleans, in said district, this 25th day of September, A. D. 1877.

W. B. WOODS,
Judge.

523 SARAH C. SHIRLEY ET AL. *vs.* STEAMER RICHMOND. } 7057.

MERCHANTS' MUTUAL INS. CO. *vs.* STEAMERS RICHMOND & SABINE. } 7057.

Consolidated cases.

THE UNITED STATES OF AMERICA:

Circuit court of the United States, district of Louisiana.

The President of the United States to Nathaniel S. Green, John N. Boffinger, Theodore Laville, Stillwell, Powell & Co., composed of Samuel L. Stillwell, Enoch Stillwell, and D. R. Powell, Carter & Conn, composed of Walter R. Carter & J. H. Conn, greeting:

You and each of you are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at the city of Washington on the second Monday of Oc ober next, pursuant to a petition & an order for appeal, filed in the clerk's office of the circuit court of the United States for the fifth circuit and district of Louisiana, wherein Edward T. Parker, public administrator of the succession of the late Sarah C. Shirley, America B. Selby, wife of Nathaniel C. Selby, and her husband, Nathaniel C. Selby, and Richard Fontaine Fuller, owners of the steamer Sabine, libellants & appellants in the case entitled Sarah C. Shirley et als. vs. Steamer Richmond, No. 7057, and of the Merchants' Mutual Insurance Company, Mechanics and Traders' Insurance Company, Factor' and Traders' Insurance Company, Sun Mutual Insurance Company, New Orleans Mutual Insurance Association, New Orleans Mutual Insurance Company, Crescent Mutual Insurance Company, and Commercial Insurance Company are libellants & intervening libellants and appellants in the above consolidated cases, and you and each of you

are appellees, to show cause, if any there be, why the judgments rendered against the said appellants, as in said petition for appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this 18th day of December, in the year of our Lord one thousand eight hundred and seventy-six.

EDWARD C. BILLINGS, *Judge.*

524 On this 17th day of August, 1877, personally appeared before me the subscriber, W. G. Elliott, a deputy U. S. marshal for the district of Louisiana, and makes oath that he served a copy of the within citation, as stated in his official return hereon.

W. G. ELLIOTT,
D'y Marshal.

Sworn to and subscribed before me this 17th day of Aug., 1877.

F. B. VINOT,
U. S. Comm'r.

(Indorsed:) Serve on Kennard, Howe & Prentiss, atty's for appellees. United States circuit court. No. 7057. Consolidated cases. Sarah C. Shirley et als. vs. Steamer Richmond. Merchants' Mut. Ins. Co. et al. vs. Steamers Richmond & Sabine. Citation.

Marshal's return.

Received Dec'r 19th, 1876, by the U. S. marshal, and on the 16th day of August, 1877, served a copy hereof on the appellees within named by handing the same to S. S. Prentiss, esq., one of the members of the law firm of Kennard, Howe, & Prentiss, attorneys for the appellees.

W. G. ELLIOTT,
D'y Marshal.

524½ *Testimony for libellant.*

United States district court. In admiralty.

STEAMBOAT SABINE
vs.
STEAMBOAT RICHMOND.

525 U. S. circuit court.

7057. Filed Nov. 3d, '73.
(Signed) F. B. VINOT,
D'y Clerk.

U. S. district court. In admiralty.

STEAMBOAT SABINE
versus
STEAMBOAT RICHMOND. No. 9822.

Testimony taken by consent of parties at the office of R. H. Marr, esq., February 27th, 1872.

Counsel present: B. Egan, esq., and R. H. Marr, esq., representing

the libellant, the Sabine; Given Campbell, esq., and E. C. Billings, esq., representing the claimant, the Richmond; M. M. Cohen, esq., representing Merchants' Mutual Insurance Company.

THOMAS J. HARRISON, pilot (on watch) of Sabine, for libellant, sworn by Mr. Cohen, United States commissioner, says:

I am 38 years of age; I live here in New Orleans; my native State is Alabama.

Q. What is your business?

A. I am pilot on the Ouachita River.

Q. When you say on the Ouachita River, do you mean exclusively?

526 A. On the Ouachita and tributaries from here to Camden—on the Ouachita River and tributaries.

Q. Are you a licensed pilot?

A. I am.

Q. Where does your license authorize you to ply your vocation?

A. From here to Camden on the Ouachita River and its tributaries.

Q. Were you on the Sabine at the time of the collision with the Richmond?

A. Yes, sir.

Q. Give in narrative form a detailed statement of all that occurred.

A. While I was coming down just above Twelve Mile Point, just before I came down to the point, I saw a steamboat very deep in the bend, nearly opposite, but a little below Twelve Mile Point, where it is a very unusual place for a steamboat to be coming up stream. I was at the wheel of the Sabine. Seeing a steamboat very deep in the bend, a little below Twelve Mile Point, which is a very unusual place for a boat coming up stream, I blew my whistle for her twice, for her to keep the bend. I blew for the larboard side. She made no reply. I blew two more whistles. She answered by one whistle, still calling for the point; I could not give it to her, but stopped my boat and backed her up. She came right straight on after she crossed my whistle. I blew my whistle, but

527 she made no reply until she blew one calling for the point, but I could not give it to her. I stopped my boat immediately and commenced backing. She ran into me and struck me on the starboard side right about the cavil—right aft the jack-staff; it is between the derrick and the jack-staff; run right into the capstan and we sank in about five minutes. When we found out we were sinking I blew the signal of distress, and I had to blow the second time before she replied; she came then to our assistance and took the passengers off. There were about seventy-five bales of cotton fell off our starboard side on her larboard.

Q. Whereabout was the Sabine at the time you first discovered the light of the Richmond?

A. Just above the point of Twelve Mile Point.

Q. How far do you think the Richmond was from you at the time you first discovered her light?

A. I think, as well as I can tell, it being at night, between one-half and a mile; somewhere in the neighborhood of that.

Q. Where do you locate the Richmond at the time you first saw her?

(Witness produced a plan or chart, which he says he did not draw himself, but was drawn by one of the best pilots on the Mississippi River, and says:) She was up near Mrs. Waggerman's, just a little below Mrs. Waggerman's, when she made the crossing, which is a mile

and a half above the usual crossing; she was at least a mile and a half above the usual crossing in the bend.

528 Q. How far from the point were you above the point when you first perceived the lights of the Richmond?

A. I suppose I was somewhere in the neighborhood of a quarter of a mile above the point when I saw her right straight down in the bend.

Q. Do you know whether or not boats sometimes land at a landing above Nine Mile Point and between Nine and Twelve Mile Point side of the river?

A. Yes, sir; the coast boats frequently landed at this place.

Q. What sort of a light was it you saw?

A. I saw the red signal light when I first saw the boat.

Q. Did you see that light continually?

A. Yes, sir; I saw the red light up until the time she struck and then backed off. I saw the red light and no other signal at all but the red light.

Q. After you blew your first whistle what response did you get?

A. I got none.

Q. What did you do then?

A. I blew my whistle again; I blew two blasts of my whistle.

Q. Did you do anything with your engines?

A. As soon as I blew and she blew one crossing mine; the very instant she did I stopped my boat and started her back.

Q. Have you any idea whether you did succeed in checking the headway of your boat or not before the collision occurred?

529 A. I think so from the fact that I believe if she had not been going back the Richmond would have struck us about midship; that is, about the after end of the boilers, if she had not been going back.

Q. What sort of machinery had the Sabine?

A. I do not know exactly the size of her machinery, but she has got good machinery. That was my first trip on her. She never refused to back or go ahead whenever I rung the bell before that; she handled quick and mighty well.

Q. How was she loaded?

A. She was not overloaded by any means. She had somewhere in the neighborhood of sixteen hundred bales, and she can carry eighteen hundred with all ease, and would not grunt with it.

Q. How high were your guards standing out of the water with the load you had on board?

A. Stopped, about four inches; running, they might have been touching a little.

Q. How far did the bow of the Richmond stand out of the water at the time this collision occurred?

A. I do not know exactly; some four or five or six feet. I know she looked pretty high.

Q. What course did you go that night after sounding your whistle?

A. I blew my whistle for the larboard side, to keep to the left, keeping down around the point; seeing her in the bend so very deep, I thought she wanted the bend, it being an unusual place for a boat coming

530 up stream; I thought she wanted the bend, she being right there.

Q. How did the Richmond come that night?

A. Right straight across the river, as straight as a bee line for us.

Q. How far under the Point were you when the collision occurred?

A. We just had cleared the Point and just straightened down the

river after making the Point. This occurred right under the Point. I run her right out on the head of the little bar that makes right under Twelve Mile Point.

Q. Which way was the Richmond's head pointing when she struck you?

A. Right straight for the bank under the Point.

Q. How near were you to that shore when she struck you?

A. Two hundred or two hundred and fifty yards as near as I could tell; it was in the night.

Q. The way the Richmond was coming, if she had not met the Sabine, what would have become of the Richmond?

A. She would have gone into the bank so hard that the Lee could not have pulled her off.

Q. After the collision what happened?

A. I blew my whistle right straight, finding that we were sinking—I blew the signal of distress to call her to us. I called once and she made no reply, and I blew the second time and she came to us.

Q. How far did she go off from you?

531 A. Nearly over against the other bank—backed right straight over across the river again.

Q. Did you hear the engineer's bell of the Richmond ring that night?

A. I heard a bell or gong ring just before she struck us. I know I heard a bell ring just before she struck us.

Q. How far off was she then?

A. About a length or not so far.

Q. What induced you after turning Twelve Mile Point to straighten up with the shore under the point?

A. Because there being most room on that side and thinking the Richmond wanted the bend by being there, and there being most room on the point, and the down-stream boat has most invariably the preference.

Q. Where ought an up-stream boat start across after rounding Nine Mile Point, in order to make the crossing for Twelve Mile Point?

A. They come up, I suppose, half a mile or three quarters of a mile above Nine Mile Point before they turned over under Twelve Mile Point.

Q. How do they cross?

A. Large boats make a tolerable long crossing; a little boat goes across pretty quick, owing to the current.

Q. When you discovered the Richmond first, how far do you judge she was above the place boats usually cross from that shore to make the crossing?

A. I think she was at least a mile and a half above the usual crossing above Nine Mile Point.

532 Q. What do you think is the distance from the place at which they commence crossing from the left-hand shore over to Twelve Mile Point; what is the distance from that place up to Twelve Mile Point?

A. I should think it was two miles and a half. The usual crossing is about half a mile above Nine Mile Point to cross under Twelve Mile Point, and I would say it is about three miles from Twelve Mile Point to Nine Mile Point.

Q. From the place at which the Richmond was when you first saw her, how far was it to Twelve Mile Point?

A. I should think the river was between three-quarters and a mile wide there; in the neighborhood of a mile wide, and she was right

straight across the river a little under Twelve Mile Point, right in the bend.

Q. When the Richmond struck you which way were you holding the head of your boat?

A. Right down stream.

Q. What effect had the blow upon your course?

A. Slew us right around; threw her larboard and our starboard sides right together.

Q. After the collision what did you do?

A. After the collision, as I said before, I blew my whistle of distress to call the Richmond back.

Q. What did you do with your engines?

A. She was backing all the time as long as she could back until the water got up so she could not back. The engineer staid there as long as he could.

533 Q. How far did you settle down from the shore?

A. I run her on the point of the bar as quick as I could. When she settled down she was, maybe, a hundred yards from the shore, as near as I could tell. She just run until I struck the point of the bar.

Q. Did you do that by backing?

A. No; we went ahead on her.

Q. You went ahead on her after the collision?

A. I went ahead right away to drive her right on the bar.

Q. What happened then?

A. The Richmond came up alongside and took our passengers, as I stated before.

Q. What became of the two boats after that?

A. The Richmond remained until next morning. I staid until next evening and left them both there. The Sabine floated down, I believe, a mile and a half below there; I could not tell exactly how far. The wind raised a little the next morning, and floated her down the river.

Q. What sort of a night was this?

A. Inclined to be cloudy a little, but there was a good many stars out. When I was at Red Church, twenty-five miles above the city, it was a little rainy and slushy, but not too dark to run, and when I got to Twelve Mile Point there were plenty of stars. It was not too bad for me to run.

Q. How many people were with you at the time of the collision?

534 A. My partner, Mr. Ensminger, and the third clerk of the boat, a young man by the name of Levi.

Q. Where was the mate of the boat?

A. He was standing out right forward, on the top of the stage, as well as I can tell you now. He was right on top of the cotton forward, and he hallooed to me and asked me, "Are you backing, Tom?" I said I am, and have been backing for some time.

Q. Was it the captain's or the mate's watch then?

A. It was the mate's watch.

Q. Do you know whether boats coming up the river frequently run on the bend side above Nine Mile Point?

A. It is not customary for them to do it; of course boats sometimes do it. She was doing it that night to a certainty. It is not her place to run; I know that one thing for certain.

Q. Have you any means of determining whether the red light that you first saw was the signal light of the Richmond or not?

A. Well, I would think it was her light, as well as I could tell. I know I saw a red light after she struck and backed off from us. I saw

a red light, and no other. Some of the boys said they saw two red lights, but I only saw one. It is not customary for boats to carry two red lights.

Q. How do they arrange the lights?

A. Red signal on the larboard side, five or six feet below the top of the chimney; and the green light about the same distance on the starboard.

535 Q. Turn to the portion of this map which indicates the river about Twelve Mile Point to Nine Mile Point say what you know about that, and whether it is a correct representation or not.

A. Yes, sir; it is a correct river.

Q. Looking on that map, indicate by any marks that may be on it where the Richmond was when you first saw her.

A. She was right about Mrs. Waggerman's, as near as I can tell; it being in the night, you know. It may have been a little below. I know she was right close to Mrs. Waggerman's.

Q. By the same map, where was the Sabine at the time you first saw the Richmond?

A. When I first saw the Richmond the Sabine was a little above the point, and the Richmond was deep in the bend.

Q. How far do you think the Sabine run from the time you first saw the Richmond until the two boats came into collision?

A. I suppose she run, may be, half a mile, as well as I could tell. I cannot tell exactly, you know. She was a little above the point, and the Richmond was deep in the bend, and the river is somewhere in the neighborhood of a mile wide there.

Q. What speed were you making down stream that night?

A. I should suppose we were making about ten miles an hour, as well as I can say. The Sabine ran very well.

536 Q. How long have you been a pilot?

A. I went on the river in 1853. I got my license out about 1857, I reckon; and I was in the army for three years. I have been on the river regularly for about fourteen years.

Q. From your experience, which is the most easily handled, an up-stream boat, with the usual cargo of up-stream boats, or a down-stream boat loaded with cotton?

A. I would say an up-stream boat, side or stern.

Q. How far was the Richmond from you when she crossed your signal?

A. I suppose two hundred and fifty or three hundred yards, as near as I could tell; may be three hundred yards.

Q. Which way do you think she was heading at the time she crossed your signal?

A. She was heading right for the shore; right for me, as near as I could tell; right plumb for the Sabine. I stopped and turned back.

Q. Do you know of any means by which you could have gotten out of the way of the Richmond that night?

A. None in the world; if I did, I would have been certain to have done it.

Q. How did your boat handle?

A. First rate. She handled as well as any stern-wheel boat I was ever on in my life, and I have been on many.

537 Q. Can you locate the point at which the Richmond struck you, looking at this photograph of the Sabine?

A. I expect so.

Q. How many feet aft of the stern?

A. Five or six feet, as near as I can tell, on the starboard side.

Q. How far did the Richmond cut into you?

A. Into the bit and shoved over the capstan.

Q. Do you know what part of the Richmond struck the Sabine?

A. She struck us right head on.

Q. Did you say the jack staff of the Richmond fell?

A. I do not recollect whether it did or not. I do not recollect noticing the jack-staff at all. I know she broke her larboard knee down against our starboard side, she going up stream and we coming down.

Q. How much higher out of the water did the bow of the Richmond stand than the bow of the Sabine?

A. Four feet, I reckon, at least, as near as I can tell.

Q. Have you ever looked at the Sabine since she was brought to New Orleans?

A. Yes, sir.

Q. Look at these three photographs, No. 1, 2, and 3, and see whether they represent correctly the cut you saw in the Sabine.

A. Number three gives the best view.

Q. What was the depth of water where the Sabine settled down immediately after the collision?

538 A. I do not know exactly the depth of water there. I was in the pilot house, and I never measured the depth of water; that is one thing certain.

Q. How long did you lay there at that place?

A. It was nearly morning when the thing occurred, and after day, next morning we got away from there, and floated down a mile and a half below there.

Q. Did you notice before you left the place where you first grounded after the collision how high the water came above the deck of the Sabine?

A. No; I never noticed.

Q. How deep was the water where she finally settled after going down a mile and a half?

A. Twenty feet on her starboard side. She was careening over to starboard, and it was up to her boiler deck.

Q. How far was she from shore then?

A. I do not know; I suppose one hundred yards, may be more; I could not tell exactly, because I did not pay any attention to it in the morning.

Q. Did the Richmond tow her down?

A. No; she tried to push her into shore, but did not do it—made a failure—tried to keep her in—kept around fumbling as if they could not handle her. I do not know whether they could handle her or not. I know they made a mighty bad out of it. It seems to me if a boat would handle at all, she would handle better than she did.

Q. Did you ever notice the bow timbers of the Sabine to see whether they were good or not?

539 A. Yes, sir; they were as good as ever was stuck in a steamboat.

Q. How many more bales of cotton do you think the Sabine could have carried than she had on?

A. I think two hundred more, with all ease—she would not have failed.

Q. Did the load the Sabine had on board interfere with the management or handling of the boat?

A. Not a bit. Of course she would not handle as quick and as fast

when she is loaded as when she is light; but she handled very well for a boat that was loaded. A boat loaded light will handle quicker than a boat loaded heavy and back up quicker.

Q. Could you indicate how far the Richmond run into the Sabine?

A. She run in plumb into the bit; that is right about the centre of the boat, and shoved the capstan over that sets in about the centre of the boat.

Q. At what angle did she strike you?

A. Nearly right angle. (Witness shows with his hands what he means.)

Q. Was she coming with full force?

A. As near as I can tell she was making about twelve miles an hour. If it had not been for the bits and the nigger in the hold she would have gone through. And if she had not 'truck the Sabine, she would have gone on the bank so hard the Lee could not pull her off. When I say the nigger, I mean the nigger engine—the engine that runs the capstan.

540 Q. How far was she when you first blew the whistle?

A. When I first signaled for her, I was between half a mile and a mile; somewhere in the neighborhood of that.

Q How long after that was it before you blew again?

A. Right immediately, right away; I thought she was not going to answer, and I blew two immediately. She blew one, crossing my whistle; the instant she did so I stopped the boat and started back.

Q. Do you know was she backing on her engines when she came into you?

A. I do not know; I heard one bell before she struck us; I did not know whether to back or not.

Q. Was it a bell or gong?

A. I thought it was a bell.

Q. Was the blow very violent?

A. Yes, sir; it was, indeed.

Q. What was the reason so many people were upon your boat?

A. Some of the officers were up making out the manifest, and we were expecting to get in at a certain time.

Q. What was the reason they were all up?

A. My partner was up in the pilot-house with me expecting to get in at a certain time, and we were going up town together; I was going home if it was within five minutes of day, because I had a young wife and wanted to see her.

541 Q. At what hour did the collision occur?

A. Between two and three o'clock in the morning, as near as I could tell.

Q. How long would it have been before you would have been in the city, if it had not occurred?

A. We would have been in town between three and four o'clock, I suppose.

Q. Did you see the Richmond back out of you?

A. Yes, sir; she backed out. I thought she was going to back into the bank on the other side.

Q. Was there a strong wind blowing that night?

A. No, not too strong for me; it might have been for the Richmond.

Q. Was there any blowing?

A. A little breeze, as there generally is on the coast, but nothing to keep a steamboat from running.

Q. What way was it blowing from?

A. I did not notice. There was not enough blowing to lead a person to look out to see where it was coming from—none to hurt anything.

Q. If the Richmond had had her proper signal lights, would you have seen them?

A. I think so. I generally see them coming up.

Q. Did you look for them?

A. I did; and I saw nothing but the red light. I said at the time, "That boat has only one signal light; what has become of the other?"

Q. Who did you make that remark to?

542 A. To my partner, who was in there with me and the third clerk. I do not know whether he noticed me or not. I said, "I did not notice but one signal light." Some of them remarked afterwards they saw two red signals, which is unusual for a boat to carry.

Q. Which side was the red signal at?

A. The larboard side.

Q. What signal was wanting?

A. The green light.

Q. That would have been where?

A. On the starboard chimney; it might have been there, but if they were I did not see them. I do not pretend to say they were not there.

Cross-examined by GIVEN CAMPBELL, Esq., for the steamboat Richmond:

Q. How high up was the cotton ranked on that boat, the Sabine?

A. It was up in the neighborhood of the hurricane roof.

Q. Was it above the hurricane roof or even with it?

A. As well as I can recollect—I never noticed whether it was over it or not; it was in the neighborhood of the hurricane roof, as well as I can tell.

Q. If you went up on the hurricane roof, what kept you from noticing that?

A. It was up to the hurricane roof or in the neighborhood. If there was any on top, I would have seen it. There may have been some up on the hurricane roof.

Q. Do not you remember there was cotton on the hurricane roof?

543 A. I do not know for certain; there may have been some up there.

Q. Do not you know there was?

A. No, I do not know it; there may have been some up there, but I will not swear there was cotton up there.

Q. Did she have any cotton ranked up on her bow in front of the cabin?

A. Of course they commenced loading forward there.

Q. How high was it ranked up in front?

A. Up to the top of the hurricane roof I suppose, right forward.

Q. How many tiers of cotton were on her front?

A. I never counted.

Q. One or two tiers?

A. All of two; bound to have been all of two. There may have been seven or eight. I expect it would take eight or nine to put it up there.

Q. How many tiers forward did it extend?

A. I do not know, because I did not pay much attention.

Q. Do not you know the Richmond took some cotton off her hurricane roof?

A. Off the Sabine's hurricane roof? No; I do not.

Q. How far aft from her stern before the cotton was loaded on her bow?

A. How far the cotton came forward on the Sabine; how near to the stern? I suppose maybe twelve or fourteen feet, I do not know
544 exactly; it may have been less than that, but no more; but I do not know; it was not my business, and, therefore, I did not pay any attention.

Q. How many bales of cotton do you suppose there was forward of the cabin, on her bow?

A. I would think there was seven or eight hundred as far as the cabin, maybe. Take it on both sides, clear across, there may have been that or not, because I do not know. I never loaded a boat; it is not my business. I am not mate or captain, but pilot.

Q. How high up did that cotton on her bow raise? Even with the hurricane roof?

A. Yes, sir; commenced from the floor and came right up.

Q. Did you have any cotton on her guards; on her side?

A. Yes, sir.

Q. How high did it come up on the sides?

A. To the hurricane roof.

Q. All around?

A. Yes, sir.

Q. Did this cotton come up in front of the staterooms and cabin around the boat?

A. I think it came up as high as the staterooms.

Q. Clear up to the hurricane roof?

A. Yes, sir.

Q. Do not you know that the cotton came up so it hid her skylights?

A. It may have hid some, but I do not know if it hid them all.

545 Q. How many gangways were there through that cotton on the cabin floor?

A. Two; one on each side, between the cabin and the guards.

Q. Was there any in front?

A. Of course, right down the steps.

Q. Could you see out in front from the cabin?

A. Yes, sir; of course.

Q. Without going down the steps, you could see through the cotton?

A. Yes, sir.

Q. Tell me how you could look through a cotton bale?

A. I cannot tell; I do not think I could do it; I merely said I could see down the gangway.

Q. How did that gangway look?

A. There was plenty of room for me to go through it, time and again, out from the cabin, right out forward, and right down the steps.

Q. Could you stand on the boiler-deck of the boat and see the river in front of the cotton?

A. No; I could not see the river, for of course the cotton hid it so I could not see it.

Q. Could you stand in the gangway and see the other side of the boat on the boiler-deck?

A. I could see both sides.

Q. In front?

A. No; in front you could not.

Q. With the cotton ranked up in front on that boat as high as
546 the hurricane roof, how could you in the pilot-house of that boat see the bow of the boat?

A. I have never said I saw it.

Q. Then how can you swear the exact position the Richmond struck that boat if you could not see her bow?

A. Because I could see how she came in. I said she came right in, as near as I could tell, and struck near the cavil.

Q. How could you see where she struck, if that cotton was between you and the bow of the boat?

A. If you examine the boat, the boat is proof enough.

Q. Did I understand you to swear that you saw exactly where the Richmond struck the Sabine on her hull?

A. No; you do not understand me to say any such thing—that I saw her strike. I said, as far as I could tell, she struck about the cavil. I being in the pilot-house could not tell, nor no living man could tell; but the proof will show. It is my opinion; that is all I propose to give.

Q. Could a man lying in one of the state rooms of that steamboat look out and see the river?

A. Owing to which one he was in; if he was in one forward, I do not think he could; but if he was in one aft, he could; because the cotton did not extend clean back.

Q. If he was back aft, could he, by looking out of the window of that state-room, see the bow of the boat—the bow of the Sabine?

547 A. No; I do not think he could.

Q. Why not?

A. Because it looks unreasonable; that a man aft on a steamboat loaded with cotton could look forward and see the bow; some men may, but I do not think I could.

Q. Would not the cotton have prevented him from seeing?

A. I think it would.

Q. What time did you go on watch?

A. At twelve o'clock.

Q. How many drinks had you taken before you went on watch?

A. Nary a one; it is a thing I take very seldom when I am on a steamboat.

Q. How came the pilot, Ensminger, to be in the pilot-house with you?

A. He said he would stay up with me, and that we would be uptown together. We expected the cars would be all stopped when we got in, and we would have to walk home, and we would go together. I never needed any one in the pilot-house to help me; I could get along myself, and he never wanted me to help him.

Q. What was this young man, the third clerk, doing there at that hour of the night?

A. I do not know; he had been down helping to make out the manifest, and he came up.

Q. Was he learning the river?

A. No; I had nobody with me learning the river.

548 Q. Where did you take on your last cotton coming down?

A. In Black River somewhere; I disremember the landing.

Q. Do you know whether you had to stop your engines coming down the river, to keep the water from running over the bow?

A. I do not know; when I have got a boat loaded, and meet a large——

Q. I do not mean that.

A. When I think I will meet any wave at all; I do not think it does a boat any good to run over waves when loaded.

Q. How many inches would two hundred bales more sink that boat?

A. I do not know; I have no idea.

Q. How many tons would two hundred bales weigh?
A. I do not know; it is owing to the cotton.
Q. Ouachita cotton—five hundred-pound bales.
A. I could not tell you; I am a very poor calculator.
Q. How much does that boat draw when she is light?
A. I do not know; I never looked at her marks. This was my first trip on her.
Q. Are you willing to swear that two hundred bales would not sink her four inches?
A. No; I am not willing to swear any such thing of the kind. I think two hundred bales would not sink her four inches. No, two hun-
549 dred bales would not; I do not think it would; I do not pretend to know, because I never noticed this thing.
Q. Then one thousand bales would not put her four feet down?
A. I do not know that it would; I do not think it would.
Q. Would a thousand bales sink her three feet?
A. I do not know; I could not say anything about that; it is something I do not know. It is not my business, and consequently I do not know in regard to what amount will sink a boat; I do not know, for I never paid any attention.
Q. Can you swear that two hundred bales will not put her down four inches?
A. No, I do not intend to swear it. I say I do not think two hundred bales will sink any boat four inches, unless it was a dug-out. I do not think it will sink a steamboat as good as the Sabine was.
Q. If two hundred bales will not sink her four inches, two thousand bales would not sink her very little over three feet?
A. I do not know anything about it. I do not know how much two hundred bales would sink her or three hundred bales. She had in the neighborhood of sixteen hundred, and was drawing in the neighborhood of six feet, and she will carry two hundred more without phasing, and it would not have hurt her a particle.
Q. How much does she draw light?
550 A. I do not know; I never noticed her marks in my life. It was my first trip on her.
Q. Do you know anything of her carrying capacity then, if you do not know what she draws light?
A. No; only what she started in with.
Q. Why do you say she could carry two hundred more without phasing?
A. Because her guards were so much out of water.
Q. Her guards were three inches out of water?
A. When she was still.
Q. When she was running?
A. They may have been touching a little.
Q. And you think, under these circumstances, she would carry two hundred more without phasing?
A. I do not know.
Q. Do you know what is the tonnage of that boat?
A. I do not know. I never looked at it.
Q. Do you know whether she had anything besides cotton on her?
A. Some few dry hides, as well as I recollect.
Q. Anything else?
A. I do not remember whether there was or not.
Q. Did that boat run into the bank with you, coming down stream?
A. Never in this world, or any other boat I was pilot on.

Q. How far above Twelve Mile Point were you when you first saw the Richmond?

551 A. Somewhere in the neighborhood of a quarter of a mile; might have been less or more, I cannot say exactly.

Q. What sort of a point is this Twelve Mile Point; a short point?

A. Not very; a gradual turn.

Q. Where were you above Twelve Mile Point when you saw the Richmond in the bend below the point?

A. In somewhere about the middle of the river, above Twelve Mile Point.

Q. How far below Twelve Mile Point on the opposite side of the river is Mrs. Waggerman's?

A. A short distance, nearly opposite; may be a little below. The Richmond may have been a little below Mrs. Waggerman's.

Q. Close to the bend shore, a little below Mrs. Waggerman's when you saw her?

A. Yes, sir.

Q. And she then headed right square across the river?

A. Not headed right straight across when I first saw her. She was coming right up the bend when I first saw her.

Q. And then she made a right angle and turned right square across the river?

A. Not immediately; no, sir.

Q. When did she turn across?

A. After I blew my whistle. I blew my whistle for her to keep the bend, as I thought she wanted it. I knew it was an unusual

552 place for a steamboat coming up stream, but I was perfectly willing for her to have it.

Q. In her position, what advantage would it be for her to strike over under Twelve Mile Point?

A. It was no advantage at all to her, because she was losing time. She was out of her course and losing time by coming over. If she was wanting to cross she had to cross a mile and a half below that.

Q. If she wanted to cross there ought she not to have held considerably above the point?

A. No; I do not know she ought. If she wanted to cross at twelve she ought to have come right across there.

Q. Would not she have to hold above the point to come across to it?

A. No.

Q. Do not you know that in holding a steamboat across to a point, she always falls under it?

A. Yes, sir.

Q. If the Richmond had been opposite the point at Mrs. Waggerman's, when she attempted to make her crossing, why do you suppose her pilot would want to hold her square on the point so as to fall under it?

A. I just believe she run off with him and he could not hold her.

Q. What would make her run off from that bend so?

A. Very often a man gives a boat too much swing and he cannot check her up by the wheel; the rudder will not check her.

553 Q. Do steamboats generally sheer from these deep bluff shores?

A. No; I do not know that they do, particularly.

Q. Is not the shore in the bend opposite Twelve-Mile Point a very deep shore?

A. There is plenty of water over there.

Q. Is not the bank bluff there?

A. Tolerably bluff; about as usual, I believe. Plenty of water over there. A great deal more over there for her than at Twelve-Mile Point.

Q. What is the usual proper course for a descending boat approaching Twelve-Mile Point?

A. To come right down in the middle. I generally run right down near the middle and come around gradually and keep down the current.

Q. Would not that carry you in towards the bend shore?

A. Sometimes it would, and sometimes not; sometimes it runs around the point, and sometimes in the bend.

Q. Will you please tell me any point like Twelve-Mile Point, where the current runs around the point and under the point?

A. There are several places.

Q. Name them.

A. There is a place above the Red Church; most of the current comes around the point.

Q. What point is that?

A. Right under McCutchin's Point. The current comes well around the point.

554 Q. Is that the only point in the river?

A. I do not think it is.

Q. What makes the bend in the river—what forms the bend in the river?

A. Will not the crook form the bend?

Q. I am not talking about the land, but what cuts the bend in the river?

A. Does not the current?

Q. Is not there always a bend opposite a point?

A. Sometimes there is, and sometimes there is not. Where most of the bends come around there is a little point opposite the bend, and sometimes there is not.

Q. Did that pilot, Ensminger, in the pilot-house, make any remark to you about the time you first saw that red light that you spoke of on the Richmond?

A. I do not recollect exactly whether he did or not. I know I remarked to him, "that boat must be landed there in the bend." She was very deep in the bend.

Q. Do you remember whether Ensminger did not tell you there was a steamboat over in the bend coming up?

A. I do not remember.

Q. Do not you remember he told you there is a steamboat; she whistled? Why do not you answer?

A. No; I don't remember anything of the kind.

Q. Did not you state before the inspectors you did not hear the Richmond whistle at all?

A. No; I did not.

555 Q. Did not you reply to Ensminger after he made the remark to you that there was a steamboat coming up and he had heard her whistle, that you believed there was a boat coming up there?

A. No; we heard a whistle, but did not know where it was; could not tell anything about it. I thought it was the cars; they were just passing; at the same time I remarked to him, "There goes the cars." I heard a whistle and thought it was the cars. I saw no boat at the time, and did not know whether it came from a boat or the cars. We saw the cars. Did not see any at the time, but saw the cars.

Q. How far above the point were you when you saw the cars and heard that whistle?

A. I do not know exactly how far; some distance above. I do not recollect how far above the point.

Q. About how far?

A. Well, it may have been about half a mile; may be not quite so far; may be a little more when I first saw the cars coming down.

Q. When you heard that whistle that you thought was the cars?

A. It may have been half a mile; may be more; may be less. Then I come down. When I first discovered this red light deep in the bend I was about a quarter of a mile above.

Q. How far are the cars below Mrs. Waggerman's?

A. Right by the house, I expect. I was not on shore there. I
556 do not know where the track goes; but it goes along the bank of the river there. I could see the cars very plain.

Q. When you saw this red signal on the Richmond, which side of the Richmond was that red signal on?

A. It ought to have been on the larboard side; that is where they generally put it.

Q. A boat running up the shore, on the bend, it would be on the larboard side of her larboard chimney?

A. A little outboard on the larboard side.

Q. Would not you be more apt to see the green than the red light in that position?

A. Certainly; if it had been there I would be just as apt

Q. If she was coming right up the shore, the bend side, could you have seen the red light if she was right opposite Mrs. Waggerman's, pretty near opposite the point?

A. Yes, sir; I saw the red light.

Q. Would it not have been on the opposite side of the chimney to you?

A. No; I do not think it would. I do not know what portion of the chimney it was on, but I saw the red light.

Q. If she had the green light on the starboard chimney, what would have prevented you from seeing the green light?

A. Nothing. If it had been there I do not think anything would have prevented me. I did not see it.

557 You say you blew your signal before she blew any signal at all?

A. Before she blew any signal I knew it was a steamboat; I heard a signal, but I could not tell whether it was above or below. The cars were passing at the same time.

Q. Did not you cross that?

A. No.

Q. You blew two whistles?

A. After that I saw the red signal of the boat and blew two whistles for her to keep the bend, as I thought she wanted the bend.

Q. If you knew it was a steamboat when she blew one signal, what would you have done?

A. I would, if she was under the point, I would hold over deep in the bend; if she had been coming up under the point, I would have given her the point, which is the proper place.

Q. Suppose the one blow you heard was the signal from the Richmond, blowing for the point; would not it have been your duty to have given her the point?

A. If I knew it and could have seen her in time, and she had been under the point, I would have given it to her; her not being under the point, I did not think she wanted it.

Q. But if you knew it was the signal of an ascending boat blowing

for the point, and about to make the crossing for the point, what would you have considered your duty under these circumstances?

558 A. My duty would have been to answer the one blow, pull off, and go to the bend, if I knew it was a a boat; but I did not know.

Q. Who was to blame for your not knowing that was a steamboat?

A. I do not know who was to blame; if I did not know it, who did know? I generally know these things as well as anybody, when I am on the water; if a boat is coming up, I am mighty apt to see her.

Q. Do you know what time the cars pass along there.

A. No; I do not know anything about it; they passed that morning between two and three o'clock; a little before the collision.

Q. How long before the collision?

A. I do not know; not long.

Q. Did you see the cars when they passed that night?

A. I saw the lights; saw them running; I suppose it was the cars; wagons do not run that fast.

Q. How long before the collision did you see the cars?

A. I do not know how long.

Q. Half an hour?

A. I reckon not.

Q. Twenty minutes?

A. I do not know whether it was or not.

Q. Where was the Sabine when you saw the cars running?

559 A. Just above Twelve-Mile Point, where I saw the cars.

Q. Where were the cars at that time?

A. Just a little above Mrs. Waggerman's, the best I could tell, going down; I thought they were going down.

Q. Have you heard cars whistle many a time?

A. Yes, sir; time and again.

Q. Is a whistle of a railroad locomotive similar to a whistle of a steamboat?

A. Steamboats have different whistles, and cars blow sometimes a little alike, and sometimes do not; there is no two boats in this river have whistles alike.

Q. Can you tell the difference between a railroad whistle and a steamboat's?

A. No; I do not know I could; they all blow by steam; I have only run a little on cars. There is no two boats on this river have whistles alike.

Q. Are not the whistles of a railroad locomotive sharp and shrill?

A. No: more the other way; like a horn.

Q. If the Richmond had held right straight across the river from Mrs. Waggerman's, in a direct line, about how far below the point would she have fallen?

A. A very little distance.

Q. If the Richmond had held right straight across the river from Mrs. Waggerman's, in a direct line, about how far below the point would she have fallen?

A. I do not know; may be a hundred yards.

560 Q. Would she have fallen any below the point?

A. I suppose she would; for I think Mrs. Waggerman's is a little below the point; I did not notice exactly; but I think.

Q. Is there any current in the river there, about Mrs. Waggerman's?

A. Yes; I think there is.

Q. When did you commence to back your engines?

A. The very minute she crossed my whistle.

Q. How far apart were the boats at that time?

A. Two hundred and fifty or three hundred yards, as near as I could tell at night.

Q. How far were you from the left-hand shore, under the point at that time; or were you above the point or on the point?

A. When I blew my whistle the last time, I was two hundred and fifty or three hundred yards from the left-hand shore, coming down.

Q. How far were you from the shore when you blew your second whistle?

A. Not much difference.

Q. About two hundred and fifty or three hundred yards?

A. Somewhere along there.

Q. Did you testify in this case before the inspectors?

A. I think I did, as well as I remember.

Q. Do not you know you did?

A. Yes, sir; I do.

561 Q. When did you testify before the inspectors; how long ago?

A. Last week.

Q. Then your recollection ought to be pretty distinct, as to whether you did testify in this case, before the inspectors or not?

A. Yes, sir.

Q. Do not you remember you testified before the inspectors that you were not more than from a hundred to seventy yards at the time this blow was struck?

A. I do not remember what I told the inspectors.

Q. Did not you endeavor to tell them the truth?

A. Yes, sir; and here too; if I do not tell it, it is because I do not remember exactly.

Q. What is the best of your recollection now?

A. It may not have been two hundred and fifty, it may not have been a hundred or a hundred and fifty; a man in the river at night cannot tell; a man out in the middle of the Mississippi River, cannot tell how far he is from shore at night.

Q. How do you account for it, in your case you should have testified that the boat was not more than seventy to a hundred yards from the left-hand bank, under the point coming down, when the blow was struck, before the inspectors; how do you account for the discrepancy between your testimony here and at that time?

A. I say, when I blew my whistle and she crossed my whistle, I was two hundred and fifty or three hundred yards from the shore.

Q. I am talking of when the blow was struck?

562 A. The last whistle I blowed I was from two hundred and fifty to three hundred yards from shore.

Q. That is not what I asked you; I asked you at the time the blow was struck?

A. When she struck me, I suppose I was a hundred or seventy-five yards or so from the shore—when she struck us.

Q. But, you testified a while ago, you were two hundred and fifty or three hundred yards from the shore; now I am talking about when the blow was struck; how far was your boat from the left-hand shore?

A. Seventy-five or a hundred yards; may be a hundred and twenty-five yards; I could not tell exactly the distance; but when I blew my last whistle, we were two hundred and fifty or three hundred yards apart.

Q. Then you commenced to back immediately?

A. Yes, sir; when she crossed my whistle, I commenced backing.

Q. In which direction did you back?

A. Backed as near as I could right up stream; right away from her; and if she could have backed one minute longer, the Richmond would have missed her.

Q. You backed right the same way from which you came?

A. Yes, sir; threw her right back.

563 Q. If you backed in the direction from which you came how could you have got within two hundred yards closer to that bank, by backing right up in the same direction in which you had come?

A. It is owing to the way her stern went, her stern might have backed out in the river; I do not know exactly how it was, but that is as near right as I can tell you; I backed her right up the river.

Q. You do not know in which direction she went when she was backing?

A. No; I backed her with all my might right straight back up the river.

Q. Do you know whether she went right straight back up the river?

A. No.

Q. Do you know whether her stern swung out in to the stream or not?

A. No.

Q. You do not know in what direction you did back?

A. No.

Q. How was your boat headed at the time?

A. Right down stream.

Q. Then you must be backing up stream?

A. Yes, sir.

Q. If you, at the time you commenced backing, were two hundred and fifty to three hundred yards from the shore, and if your boat backed right up stream. I want to know how she got within seventy yards of the shore by backing right straight up stream in the same direction from which you had come—at the time the collision took place, I mean?

564 A. I might have been mistaken, which way the stern was going. It was in the night, and I never looked at the stern; I was watching her head; I could not tell which way her stern backed.

Q. Then you might have been backing right straight in towards the shore?

A. No; I was not.

Q. Well, you might have been backing out from the shore?

A. No; I was not.

Q. You might have been backing down stream?

A. That is a fact (witness laughs); I might have been backing that way, with her head down stream and her stern up.

Q. Then, you were backing right up stream?

A. It looks so.

Q. Then, explain, if you were backing right up stream in the direction from which you had come; how, by backing right up stream in the direction in which you had come, being two hundred and fifty to three hundred yards from the shore, at the time you commenced backing, how you managed to get that boat within seventy yards of the shore by pursuing that course?

A. She might not have been seventy yards; I never measured; it might have been three hundred; it may have been a thousand; I do not know; I never measured and do not propose to measure it; I just tell what I think is so.

Q. Then you cannot swear whether she was within one hundred
565 or three hundred yards of the shore at the time the blow was struck?

A. I tell to the best of my knowledge.

Q. Then, as I understand you, you cannot swear as to whether she was within a hundred or three hundred yards of the shore when the blow was struck?

A. I suppose from seventy-five to a hundred or a hundred and twenty-five, or somewhere along there. I do not know how long it was.

Q. You cannot tell how you got from two hundred and fifty to three hundred yards of the shore at the time you commenced backing to within from seventy-five to one hundred and twenty-five yards of the shore at the time the blow was struck?

A. A man cannot tell much about a thing of that kind when two boats were coming together; you could not tell yourself if you were there; you would have been so scared you would have jumped in the river, in the deep side.

Q. Were you scared?

A. No; I was not.

Q. Then why could not you tell?

A. I was doing the best I could to get away from the Richmond. I was not noticing the shore at all. I was trying to get the Sabine out of the reach of the Richmond.

Q. What effect would it have on a heavy loaded boat by the bow coming round under the point to get her head caught in the slack water, and to commence backing—what effect would it have on her course?

566 A. Some boats it has different effects on. It would not have much effect on that boat. Would it keep her head in the eddy, and let her stern come around with the current; is that what you want to know?

Q. What effect would it have on a heavy loaded boat by the bow coming around under the point to get her head caught in the slack water, and to commence backing—what effect would it have on her course?

A. If her head had been caught in the eddy water it may have the effect of swinging her stern down the stream, but it was not caught in the eddy; she was not near the eddy.

Q. Is not there slack water under the point?

A. Yes, sir; but we were not in it.

Q. Is not there an eddy right under the point?

A. I think there is.

Q. How far out; a hundred yards?

A. I do not know. I never noticed particularly whether it is or not.

Q. How can you say that boat never got caught in that eddy if you do not know how far the eddy extended out under the point?

A. I do not think she was.

Q. But how can you swear she was not?

A. I have not sworn it. I said in case she was to do it it might have some effect; but she did not get her head in the eddy.

Q. How can you swear she did not?

567 A. I may swear the Mississippi River was not an eddy from one end to the other.

Q. Do you know how far out that eddy extends?

A. No.

Q. Do you know whether it extends a hundred and fifty yards or not?

A. No.

Q. Do you know whether it extends two hundred yards or not?

A. No.

Q. You know there is an eddy there?

A. No; I do not know that there is one there, but there may be.

Q. Ought not a pilot to know where the eddy is under prominent points like Twelve Mile Point?

A. I do not know it is necessary for them to know.

Q. Can you swear positively, not knowing whether there is an eddy or not, that that boat did not get her head caught in that eddy?

A. No; I could not swear that, because I do not know in the first place for certain whether there is an eddy; there may be a little, but I do not think there is much.

Q. If there was an eddy there under that point, and that boat had caught her head in that eddy coming down stream, and you attempted to back her, what would be the natural effect of those motions upon the course of that descending boat?

568 A. If there was an eddy, and she had caught, it might have effected her something; I do not know that it would, though, have effected her a particle.

Q. Do you know what the effect would have been to hold her head up and swing her stern down?

A. I do not know it would have effected her a particle.

Q. Why would not it have effected her like any other steamboat?

A. I do not think it would effect her.

Q. Why not?

A. I do not know exactly why it would effect her. In the first place she did not have her head in the eddy. I do not know how she will handle in an eddy. I have never handled her in an eddy; some boats do not act well in an eddy.

Q. Do not you know such a position as that in ninety-nine boats out of a hundred would have the effect of turning her head in towards the shore, and swinging her stern down or of rounding her to?

A. Yes, sir; if she had been caught in an eddy she might have swung somehow in that direction; but in this case she was not caught there.

Q. I want to know how you can swear she was not caught in an eddy?

A. How can I swear she was? I want to know that.

Q. How can you swear she was not caught in an eddy there?

569 A. I do not swear she was not caught in an eddy; but I do not think there was any eddy there to hurt any boat.

Q. But you do not know?

A. I do not think there was.

Q. I do not want your thinking, but your knowledge.

A. There is no eddy there to hurt any boat.

Q. Do you know that?

A. Yes, sir; I know it.

Q. Did not you, awhile ago, swear you did not know there was an eddy there?

A. I said I did not think there was; there is no eddy there to hurt a boat. I know what you are trying to get at—if that boat was mishandled because she got caught in an eddy. There was no eddy there to hurt her.

Q. Did not you testify before the inspectors that in coming up the river you generally crossed from above Nine Mile Point under Twelve

Mile Point, for the purpose of getting the benefit of the slack water, there.

A. No; I did not. I said the usual crossing is above Nine Mile Point.

Q. Well, why do they do it?

A. Because it is a shorter distance coming up there, and there is not apt to be as much current under a point as there is in the bend.

Q. Is there any current under Twelve Mile Point?

570 A. I suppose there must be a little current there. I think there is, by its washing the Sabine down from the point next morning.

Q. Did not you swear, in your direct examination, that the wind blew up, and blew her down?

A. No. I said the wind got up a little, and blowed her down.

Q. I will change the question. The wind arose next morning, and blew her down?

A. Yes, sir; but the wind will blow her up sometimes when the current is coming down.

Q. I did not think it would be necessary for the wind to arise and blow her down stream, if there was the current there to carry her down stream.

A. It was not really necessary for the wind to get up to blow her down; she might have got down, whether there was any wind or not. She might have got down whether there was any current or not.

Q. Do not you know that the cotton that fell off that boat staid right along shore there, under that point?

A. No; some of it came to this wharf.

Q. Do not you know a great deal of it stopped there?

A. Yes, sir.

Q. How much of it came to this wharf?

A. I do not know. I never picked up a bale of it.

Q. What would keep that cotton up there, if the wind was blowing down stream, and there was a current to bring it down stream?

A. I do not know what would keep it up there.

571 Q. Would not the eddy keep it there?

A. If some of it got in the little eddy there, it might have staid there. Some of it might have got in a little eddy; and all that did not stop in the neighborhood came long down to Carrollton.

Q. Was not there a great deal of it stopped there?

A. Yes; right smart; the niggers got a great deal of it, right along shore, there.

Q. Do you not know the mate and some of his deck hands got two hundred and fifty bales right out there?

A. I do not know he got any.

Q. Do not you know I got salvage on it for him?

A. I did not get a nickel.

Q. What makes you swear there was some of that cotton floated down to New Orleans?

A. I have not sworn it. I said I understood there was some of it came clear down to New Orleans. I do not know anything about it, only what I heard; nor I could not swear she had on twenty-five bales of cotton, for I never counted it. They say she had sixteen hundred on, but I would not swear she had twenty-five.

Q. Then you did not blow first?

A. I blew first, after I saw there was a boat coming up stream.

Q. You did not blow before you heard that first blast that you took to be a railroad whistle?

A. No; but as soon as I saw the boat, I blew for her.

572 Q. Were not you hugging the shore coming down under the firm belief that it was too late for boats to be leaving New Orleans, and you would have that shore all to yourself?

A. No.

Q. Why did you hug that shore?

A. I did not hug it. I was out the usual distance from the shore until I saw the boat coming up the bend, when I drew in under the point, to give her the bend, as I thought she wanted it. I saw there was most room between her and the point side—a good deal more than there was between her and the bend side—consequently I thought I would take it. A downstream boat has the preference.

Q. But when you saw that boat coming across, you swore you thought she would strike three hundred yards under the point; you at the time were half a mile above the point; could not you have held your boat out into the bend to give her a wide berth, and let her come under the point?

A. No; she was so far, deep in the bend, it would not have done for us both to be down there together.

Q. But you said the Richmond was right opposite the point?

A. Nearly opposite the point, but deep in the bend; if anything a little below the point, but right deep in the bend, near Mrs. Waggerman's, as near as I could tell.

Q. Where were you when you saw her right opposite Mrs. Waggerman's, deep in the bend?

573 A. I was a little above Twelve Mile Point.

Q. How far?

A. Somewhere in the neighborhood of a quarter of a mile.

Q. How far was the Richmond from the bend shore?

A. I could not tell; she was so far off I could not tell.

Q. Could you tell which course she was coming that time by looking at her?

A. I thought she was coming up the bend by being there.

Q. How could you tell which course she was coming?

A. From the simple fact that she was over there out of her range entirely; she was a mile and a half above where she ought to have been; if she had been in her right place, she would have been in her night place crossing the river coming up under the point; I believe she generally makes her crossing like where she feels.

Q. You say the Richmond was coming at the rate of twelve miles an hour when she struck the Sabine?

A. I say I expect she was; I thought she was coming forty at the rate she went into us; I do not know how fast the Richmond is, but I know she came into us pretty fast.

Q. If your boat was within seventy yards of the shore at that time, and the Richmond, a large, powerful, heavy boat, came against
574 her at the rate of twelve miles an hour, what would have prevented both your boat and the Richmond from being run out on to the bank by that blow?

A. If she struck us in the right place, I suppose she would have drove us both up; but when she struck, we went right around.

Q. Why did not both of you go on to the bank?

A. I assure you I went there as quick as I could.

Q. Did not you swear a while ago the engines of your boat were un-

der water when you stopped backing, and that was the reason you stopped backing?

A. Yes, sir.

Q. Did not you swear the engines stopped themselves?

A. No; I did not swear that.

Q. Did not you swear you then started your engines and went into the bank?

A. As soon as the Richmond struck us I come ahead on them.

Q. You do not mean to say the Richmond's blow drove her into the bank, but you come ahead on them to go in yourself?

A. Her blow assisted me sooner than I would have got there.

Q. Are you familiar with the rules laid down by the Board of Supervising Inspectors for navigating the Mississippi River under act of February, 1871?

A. No, not entirely familiar with them.

Q. Do you know what the first rule is?

575 A. I do not think I have got a copy of them at all; of the last rules at all.

Q. Do you know what the first rule is?

A. I do not think I do; of the last I do not recollect what it is.

Q. You say a down-stream boat invariably has the preference?

A. Yes, sir.

Q. What do you call the preference?

A. Either side she wants.

Q. Do not you know it is the rule of the river that when an ascending boat is running up along a shore she must keep that shore?

A. Yes, sir; if she is coming up a shore, let her have it.

Q. Do you not know it is a rule that a descending boat keeps the middle of the stream?

A. A down-stream boat keeps the middle and an up-stream boat keeps under the point.

Q. Why did not you keep the Sabine in the middle of the stream; why did you try to come around under the point?

A. I did not until I saw the Richmond in the bend.

Q. Could not you have made a short crossing from above that point into the bend?

A. No; I would have kept right down the middle of the river.

Q. But could not you have made a short crossing from above that point into the bend?

A. I could.

576 Q. If you had done so, could not you avoid the collision?

A. No; if I did, she might run over me right plumb in the middle of the river, for she was right opposite the point coming across.

Q. But if you held out right across the middle of the river opposite the point, and the Richmond was held for the point, which course you say would have brought her at least two hundred yards under the point, and you had both started across the river at the same time, you a quarter of a mile above the point, and she some distance below the point, about Mrs. Waggerman's, which would have brought her in two or three hundred yards below the point, could not you have avoided the collision; if you both came across, she below and you above, and you both came square across, could not you have avoided the collision that way?

A. Yes, sir, if I knew she was coming across, and I went across, it might avoid it. I did not know she intended to come across.

Q. Was not it your business to keep in the middle of the stream?

A. Yes, sir.

Q. Were you in the middle of the stream when the signals were crossed?

A. No.

Q. Where were you?

A. I was nearest the point side.

Q. Why did you blow for the left hand before you heard any signal from her?

577 A. Because there was the most room there.

Q. Which boat is compelled by law to sound the first signal?

A. The up stream boat, I think.

Q. Then why did you undertake to sound the first signal?

A. Because I did not think she would blow at all.

Q. But you heard one blow that you took to be a railroad whistle?

A. Yes.

Q. Then it was your mistake?

A. If there was a mistake; I cannot tell there was a mistake, the cars were just passing and we saw no boat.

Q. If you were coming down above Twelve Mile Point and should stop your engines still, where would your boat float to?

A. Down stream.

Q. Towards the bend or in towards the point?

A. She might float into the bend and she might not.

Q. Do not you know where she would float to if there was no wind at all; do not you know which way the current runs?

A. Down about the center of the river.

Q. Does not it strike over towards the bend shore?

A. Sometimes, yes, sir; or about the center of the river; just about as much the middle of the river as anywhere else.

Q. Is not it the current sweeping around that point that cuts out the bend?

578 A. Yes, sir; I expect it is.

Q. How was the bank right opposite, where the collision took place?

A. A little flat, right opposite, right at the head of a little bar that is made out under Twelve Mile Point—not much of a bar either.

Q. How far below Twelve Mile Point are the Willows?

A. Only a short distance.

Q. How far below?

A. A hundred yards or a hundred and fifty yards, somewhere along there; I do not know exactly the distance.

Q. How long was it in time, after you made the remark to the clerk or to your partner in the pilot house that you thought that was a boat over there, before the collision?

A. I do not recollect exactly the time when I first discovered the light; I could not tell exactly how long it was; I thought she was between half a mile or three-fourths of a mile off, maybe a mile off, when I first discovered the light.

Q. And you say that one boat was running at the rate of ten and the other twelve miles an hour?

A. Yes, sir.

Q. Take that diagram and mark on it where the Sabine and the Richmond were when you first saw the Richmond, and make the marks so as to show the direction each boat was making?

579 (Witness makes the marks on the diagram as directed.) At what distance where they apart at the time you refer to?

A. I would say somewhere in the neighborhood of a mile apart at that time when I first discovered the boat.

Q. How many minutes was it before the two boats came together?

A. I cannot say.

Q. Was it ten minutes?

A. It may have been; it may have been a little longer, or not so long; I could not tell to save my life.

Q. If the Richmond was not, as you suppose, unmanageable, can you conceive of any sensible reason why she would have crossed the river as you say she did cross?

A. I do not see why she should have crossed there at all after she got up so high. She lost time crossing there to come up that high.

Cross-examined by Mr. COHEN:

Q. You said, if the Richmond had not struck the Sabine, that the Richmond should have gone into the bank so far that the Lee could not have pulled the Richmond out of the bank. Now, how do you explain that the Richmond did not run through the Sabine or enter the Sabine deeper than she did enter, the Richmond going at twelve miles an hour?

A. I think the machinery of the capstan stopped her—stopped
580 her from cutting the whole head off her; if it had not been for that, I do not think she would ever have stopped at all, if not for the machinery attached to the capstan.

Q. What is the size of that machinery?

A. I do not know the size of it at all.

Q. I ask you if there was anything in the blow that the Richmond gave the Sabine of a slanting nature, so that the Sabine was shoved on one side as it were; and, if the blow had been further aft, would the Richmond have entered deeper into the Sabine to enter in where she did—enter in so far forward, the Richmond did not enter the Sabine so far as if she had struck her further aft?

A. I think she would have gone in further if she had struck her aft, than striking her there on the machinery. If she had struck her forward of the main machinery, I think she would have cut the whole stem off her; she would have cut her in two. At the gait she was coming, if she had missed that machinery, the nigger, she would have knocked the whole bow off her. If she had struck her further aft than she did, she would have gone on through.

Q. As the Richmond was at or near Twelve Mile Point at about half-past two, could she have left the port of New Orleans at the hour usual for up stream boats to leave, and be no further up the river, unless after leaving at the usual hour some circumstances occurred to stop the Richmond in her up stream voyage?

581 A. If she had left at her usual time of leaving here she ought to have been a long way further than that.

Q. What is the usual time for steamboats to leave here?

A. They generally try to get off as near five o'clock in the afternoon as they possibly can; at least, that is my impression; they always try to get off at that time; they miss it sometimes.

Q. As the usual hour for up stream boats to leave the port of New Orleans is five o'clock in the afternoon, you would not expect to meet her at Twelve Mile Point at half-past two o'clock in the morning?

A. No; we ought to meet her above Donaldsonville, eighty or a hundred miles above, a boat like the Richmond. They say she runs pretty well; she ought to be up near Donaldsonville. If she left at five o'clock

she ought to be up at Donaldsonville nearly. Some calls it seventy-five miles and some eighty miles; it is all of seventy-five miles.

Redirect for the Sabine:

Q. Did you see the lights on the cars coming down that night?

A. Yes, sir.

Q. How long was it before or after you saw the cars that you heard the whistle?

A. Soon after I saw them I heard the whistle; just the time they were passing I told the boys there goes the cars.

582 Q. Did you see the light on the Richmond before or after?

A. Not before.

Q. Did you see the light on the Richmond before or after you heard the whistle?

A. I saw the light of the Richmond after I heard the whistle.

Q. Have you any idea how long after?

A. No; I do not remember the time exactly; it was not very long, though; a few minutes until I discovered the red light of the steamboat.

Q. Could you tell whether the light on the cars running down were the lights of a steamboat or not? Did you plainly make it out to be the lights of the cars?

A. Yes, sir; I could plainly hear the wheels running. I knew it was the cars. I saw a great long string of them, and told the boys there goes the cars.

Q. What was the distance apart, between the light of the cars and the light of the Richmond, when you saw the light of the Richmond?

A. When I saw the cars, the cars were above Mrs. Waggerman's, and the Richmond was a little below, when I first discovered her.

Q. Was there any difference between the lights of the cars and the lights of the Richmond?

A. I saw no lights on the Richmond at all but the red signal; that was the first light I noticed on the Richmond. I never noticed any other light on the Richmond at all.

583 Q. Did you continue to see the red light until the collision?

A. Yes, sir; I saw the red light until after she backed clean off from us. I heard some of the boys say something about seeing two red signals. I did not see but one; it is unusual for boats to carry two red signals; some boats carry them, but ours did not.

Q. Have you observed, since the accident, anything about how the bows of the Sabine are, whether they are strong or weak, or what?

A. I was up a day or two ago looking at her, and there was a mate up there saying there was as fine timbers in her as ever was in a boat—well built.

Q. Are you able to state which way the head of the boat was at the time you received the blow of the Richmond?

A. Heading right down stream.

Q. If that is the case, she had not rounded to in the eddy?

A. No; she had not rounded to in the eddy at all.

Q. When daylight came in the morning, where was the Sabine?

A. She was up near where the collision occurred; right under the point, but working down gradually, slowly; and the Richmond was working at her, trying to shove her out on the bar.

Q. Did the Richmond continue to work at her until she got aground, where she finally rested?

A. Yes, sir; and got above her on the starboard side. The
584 Sabine, at that time, was leaning to the starboard, looking as if she would turn over, and the Richmond got above her, and got a line fast to her hog chains, until they could get the furniture and everything out of the cabin.

Q. Were the Richmond's engines going ahead, or what?

A. Just lying there.

Q. Did the Richmond work her engines at all from the time she came alongside of the Sabine until the Sabine finally rested where she did?

A. Yes, sir; she thought to get the Sabine as close to the shore as possible; they thought to do it, but they could not manage the Richmond. Our clerk hallo'ed to the captain, he knew he could do better than that; and he hallo'ed to the clerk that he knew his own business best.

Q. Then, was it or not the force of the current alone that took the Sabine to her final resting place?

A. Yes, sir; the current took her down there. The wind was blowing a little, but not much.

Q. Then the Sabine could not have been in any eddy?

A. She was not in any eddy, except I drove her in under the point after the boat struck her.

Q. How far from the shore do you think she finally rested?

A. I do not know exactly how far; it may have been a hundred yards; maybe not so far. I could not tell; it may have been a hundred and fifty where she settled down.

585 Q. Did you observe how far that was above Kennedy's house?

A. It was not very far above Kennedy's; she got nearly down to the usual crossing before she settled down; down near there.

Q. Do you know whether your boat got any nearer into the shore after she was struck than she was at the time she received the blow?

A. Yes, sir; got in closer, because I run her right in after she was struck.

Q. Do you know this paper which is now exhibited to be a correct delineation of the river at and above Nine Mile Point, and up to Twelve Mile Point?

A. Yes, sir; that is pretty correct.

Q. When you saw the light of the cars first and heard that whistle, were you in view of a boat coming up the river above Nine Mile Point?

A. No.

Q. At that time could you have seen a boat that was coming up above Nine Mile Point, on the Nine Mile Point side of the river?

A. No.

Q. Why could you not see her?

A. I was above Twelve Mile Point and it was too far away; I was above Twelve Mile Point and could not have seen.

Q. And it was not until you had got further down, after having seen the light of the cars, that you saw the light of the Richmond?

A. Yes, sir.

586 Q. How many whistles did you hear from the Richmond, that you knew to come from the Richmond?

A. Only one.

Q. Was that before or after you had blown your whistle twice?

A. After I had blown twice; just about the time I blew my two last whistles, she crossed it by blowing one whistle, calling for the point; it was too late then, I could not give it to her.

Q. Do you remember what sort of a night this was?

A. Yes, sir.

Q. How far on the river, such a night as that, could you see in a straight river the signal lights of a steamboat?

A. If they were burning well, I should think they ought to be seen easy a mile.

Q. After the Richmond came into you, did you observe closely to see whether there was a light on her starboard chimney or not?

A. No; I did not notice particularly, but if there had been one there I would have been certain to have seen it; the only light I saw on her was the red light.

Q. Which shows the plainest at night, the green or the red light?

A. There is not much difference; if anything, I believe the green light shows a little the plainest; more brilliant I believe.

587 Recross-examined for the Richmond:

Q. You stated about the timbers of the Sabine on her bow; which timbers do you refer to?

A. When I speak about them, I mean the timbers the whole bow was made of, the whole thing.

Q. The sides?

A. Sides and everywhere else.

Q. What is the dimensions of these timbers?

A. I do not know.

Q. You do not know the dimensions?

A. No, I do not.

Q. Are they as large as the timbers of the Richmond?

A. I think not; I would think the Richmond's were larger than the Sabine's.

Q. You saw that little engine that works the capstan?

A. I never noticed particularly.

Q. Have you seen the boat since she has been raised?

A. Yes, sir.

Q. Could you help from seeing that little engine?

A. I could very easy by not looking.

Q. Well, did not you see it?

A. I did see there was one in there, but I did not notice particularly.

Q. How big?

A. I could not tell.

Q. Is that engine as big as a wheelbarrow?

588 A. I could not say to save my life; nor you could not put it in the shape of a wheelbarrow to save your life. I could not tell anything about engines being as big as wheelbarrows.

Q. How wide is the bow right where that engine sits.

A. I do not know exactly; I could not tell to save my life; I could go somewhere within four or five feet of it; it may be twenty or twenty-five feet right across there and it may not be more than fifteen. I could not say; she is pretty broad though right across there, right across from one guard to the other.

Q. I am talking right where that engine sits.

A. I could not tell you how wide it is across there.

Q. Then you only went there to look at the kind of timbers she had?

A. I did not go to look at that particularly; I was going by there and I concluded I would stop and look at her, and did so. I went back to look at her wheel.

Q. Why did the Richmond make fast the line to the hog chains on top of the Sabine, you spoke of awhile ago?

A. I thought she did it to prevent her turning over.
Q. Was she about turning over?
A. I thought she was. The Richmond got above and shoved her, and I thought when she run against her she would turn her over.
Q. Was not she floating at the time?
A. No.
589 Q. Was she aground at the time the Richmond fastened the rope to her?
A. She was lying aground.
Q. Are you positive that she was aground at the time the Richmond fastened the line to the hog chains?
A. I am not positive. She was sunk, and I reckon she must have been aground.
Q. Do you think fastening that line to her prevented her from going over?
A. I do not think it did. It might have done more harm than good. I cannot say as to that.
Q. Do not you know that the wind was blowing pretty stiff?
A. No, I do not.
Q. Which direction was the wind blowing that night?
A. I do not know; I did not pay any attention to it.
Q. When the Richmond was trying to get her into shore in the morning, which way was the wind blowing?
A. I do not know; I never paid any attention to it.

D. W. ENSMINGER, pilot (off watch) of the Sabine, examined for the claimant, the Sabine, and sworn by M. M. Cohen, esq., United States commissioner, says:

I am a pilot.
Q. How long have you been a pilot?
590 A. I have been on the river for six years.
Q. As pilot?
A. Learning the river; I got my license in 1868.
Q. What trade have you been pilot in?
A. Ouachita River and tributaries I have license for.
Q. Do you mean from New Orleans to the Ouachita River?
A. Yes, sir.
Q. Were you on the Sabine in any capacity?
A. Yes; I was one of the pilots.
Q. What time did you go off watch on the night of the 10th of February?
A. At twelve o'clock.
Q. You went off watch at twelve o'clock; who took the wheel then
A. Mr. Harrison, my partner.
Q. Where was it that you went off watch?
A. In the neighborhood of the Red Church. I do not know exactly; a little below on the coast.
Q. What did you do after you went off watch?
A. I remained in the pilot house part of the time, and part of the time I was out.
Q. Where were you when the boat approached Twelve Mile Point?
A. I was in the pilot house.
Q. Who was there with you?
A. Besides my partner, there was a young friend. He was the bill clerk of the boat. His name was Levi.

591 Q. You and Levi and Harrison were in the pilot house?
A. Yes, sir.
Q. Did you see any cars coming down on the shore that night?
A. I did.
Q. About where was the Sabine at the time you saw these cars?
A. We were in the reach, just above Twelve Mile Point.
Q. Just state how the boat was navigated and what happened after that time until the collision occurred with the Richmond.
A. As we were coming along, just above the point, we discovered a light in the bend which was a signal light, and we came on down and got down just shaping around the point when my partner blew two whistles, to which there was no reply. He came on still further down, I supposed some quarter of a mile—hardly so far—and he blew again; and just as he blew the second time it was crossed from the other boat. He did not know at the time what boat it was. When the whistle was crossed he saw the boat was coming down towards him, and he stopped the Sabine and was backing at the time the collision took place. Just before the Richmond got to us, about a length or a little further, I heard her ring a bell. I supposed they were stopping bells. She came into
592 us and struck us a little forward on our cotton. I could not tell exactly how far. After she struck us we swung together, lapped; that headed the Sabine for the shore, and my partner came ahead on her and run her out on the bar. The Richmond backed off from us and we hailed her and she came alongside.
Q. When you first saw the light of the Richmond, where do you think she was?
A. She was in the bend just below Mrs. Waggerman's.
(Diagram of the river produced by Harrison is shown witness, who is asked—)
Q. Is that a correct delineation of the river in that vicinity or not?
A. It looks as if it was. There are some traces here I do not understand exactly. I am not very well versed with some of these landings here and cannot tell whether it is like that or not.
Q. Does it correspond with the shape of the river?
A. The shape of it corresponds.
Q. Where was the Sabine at that time?
A. Coming along just above the point in the reach.
Q. Could you see which way the Richmond was heading when you first saw her?
A. She looked to me to be heading straight up the river.
Q. In what part of the river do you think the Sabine was when the Richmond crossed her signal?
A. She was in below the point.
593 Q. Did you observe when the Richmond left the left hand shore to make her crossing over to Twelve Mile Point?
A. It was after Harrison had blown his first signals.
Q. She commenced her crossing after the Sabine had blown her first signals?
A. Yes, sir.
Q. How did she come across the river?
A. She came pretty nearly square across the river.
Q. Do you know where the boats usually commence to make their crossing from that shore, when they are coming up the river?
A. About a mile or a mile and a half below where I first saw the Richmond:
Q. How many lights did you see on the Richmond?

A. I saw two.
Q. What lights were they?
A. They were both red.
Q. Can you locate these two lights; can you tell where the two lights were?
A. I can.
Q. Do so.
A. One was on the larboard chimney and the other on the mast aft the pilot house.
Q. You say you saw no other lights but these two?
A. I did not see any more; I never noticed any more.
594 Q. From the time the Richmond crossed your signal until the time the two boats came into collision, did you lose sight of the Richmond at all?
A. No.
Q. Do you know which way the Sabine was heading at the moment the boats came in collision?
A. She was heading down stream.
Q. What effect had the blow on the course of the Sabine?
A. It swung her towards the larboard shore—into the left hand shore.
Q. Which shore do you mean?
A. The point side.
Q. Swung her head in towards the shore on the point side?
A. Yes, sir.
Q. Have you any means of ascertaining, or do you know whether the Sabine had stern way at the time the Richmond hit her?
A. I do not know whether she had stern way or not; I could not tell.
Q. Could you see the shore plainly under the point?
A. Yes, sir.
Q. What distance do you think the Sabine was from the point shore—I mean from the shore on that side—at the time the Richmond hit her?
A. About two hundred and fifty yards, I guess, or three hundred yards, as far as I could judge.
Q. What part of the two boats came together?
595 A. The Richmond struck us with the stem, on our larboard quarter, about six feet I guess from the stem of the Sabine.
Q. You say the two boats swung together then?
A. Yes, sir.
Q. How long did the boat remain in contact after they swung together, before they separated?
A. It was a very short time; I could not tell exactly, but it was inside of a minute I guess.
Q. The Richmond backed off from the Sabine?
A. Yes, sir, she backed off. The Sabine was going ahead though after they swung. He came ahead on her and swung her in toward the shore. The Richmond backed away.
Q. How close do you think the Sabine got into shore before she grounded?
A. It was about seventy-five yards I guess—in the neighborhood of it.
Q. When you saw the light of the cars, was that before or after you saw the light of the Richmond?
A. Before I saw the light of the Richmond.
Q. From the position in which the Sabine was, at the time you saw the light of the cars, how far down the river could you see?
A. I could see two miles on the coast at the time I saw the cars.

Q. Did you see any steamboat or steamboat light in the river at the time you saw the cars?

A. No; not at the time I first saw the cars. After the cars had passed us some distance, I saw the light.

Q. Did you continue to watch that light?

596 A. I did not.

Q. What sort of a light was it?

A. It was a red light.

Q. Could you tell whether it was a steamboat light or not?

A. I could not tell positively; it looked like a steamboat light; I thought it was.

Q. How far under the point, or below the point, was the Sabine at the time she received the blow?

A. I suppose she was some three hundred yards.

Q. Are you quite sure you heard the bells of the Richmond?

A. Yes, sir.

Q. Did you hear one bell or two bells?

A. I could not tell how many there was; but I heard bells ring on the Richmond.

Q. Could you distinguish between bells and a gong; do you know whether it was bells or a gong you heard?

A. It was bells that I heard.

Q. How far do you think the boats were apart at that time?

A. About the length of the Richmond I suppose.

Q. What is the capacity of the Sabine; do you know how many bales of cotton can she carry?

A. I do not; she was never full loaded while I was on her. She would carry, I suppose, seventeen hundred bales.

597 Q. Coming down the river with this cargo that she had on board, how far were her guards out of the water?

A. I really do not know; I never noticed; I never looked.

Q. Had you room on board for any more cotton?

A. Yes, sir; they could store more on board.

Q. Did you notice how high the bow of the Richmond stood out of the water that night?

A. I did not.

Q. Have you ever observed the Richmond particularly?

A. Yes, sir.

Q. With an ordinary up stream load, how high would the bows of the Richmond stand out of the water?

A. I do not know that I could tell exactly; I have no idea about that.

Q. How long do you think the Sabine floated after she got the blow before she sunk?

A. She was floating the next morning still. We run her into the bar and she struck and settled, but she floated off. The weight of the Richmond pulled her off next morning. She made fast to the Sabine on the outside. She floated down very nearly a mile below. Then the Richmond shoved her in again on the bar.

Q. After the Sabine was struck, how long was it before she got into where she grounded?

A. She went in, I suppose, in two minutes; in less time than that.

598 Q. You say she rested there until she was pulled off by the weight of the Richmond?

A. She lay there until after daylight some time.

Q. Then the Richmond fastened on the outside of her?

A. When the Richmond came alongside of us she fastened to us on the outside.

Q. You mean she got between the Sabine and the point?

A. No; she was on the outside next to the river; the side opposite the point.

Q. Did she make her lines fast to the Sabine?

A. Yes, sir; I believe she did.

Q. And both boats floated off together down stream?

A. Yes, sir.

Q. State whether the engines of the Richmond were working or not when she was alongside of the Sabine.

A. Do you mean while she was afloat?

Q. At any time after the Sabine sank, and the Richmond came alongside of her. State whether the Richmond's engines were working or not, and for what purpose.

A. They were working for the purpose of putting her in again on the bar.

Q. Did you observe any eddy there where the Sabine was lying?

A. We were at the foot of the eddy, I think, right about the foot of the eddy.

599 Q. What became of the cotton that fell off the Sabine?

A. Some fell in the water and some fell on the Richmond.

Q. That which fell in the water, which way did it go?

A. I saw some above us and some floating down the river.

Q. Did you get into the place where you grounded above or below the place where you received the blow in the collision?

A. About opposite where they came together, a little below if anything.

Q. Did you notice any willows on the shore there under Twelve Mile Point?

A. Yes, sir.

Q. Were you above or below the willows when you got the blow?

A. We were not below or above; we were down near the foot of the willows.

Q. Do you know how the Sabine was running that night?

A. I could not tell what time she was making; she was running very well.

Q. Have you any idea how long the Sabine had been backing; how many revolutions back she had made when the Richmond struck her?

A. No; I do not.

Q. Can you form any idea of the speed of the Richmond at the time the blow was struck?

A. No.

600 Q. Which is the easiest boat to handle, a boat coming down stream or one going up?

A. I believe I would prefer handling one going up.

Q. Who pulled the stopping bells of the Sabine?

A. Mr. Harrison.

Q. When did he pull them?

A. I do not know exactly when he pulled them.

Q. Did you hear them?

A. I do not know that I heard them; I was not paying much attention; I was looking out at the Richmond. I saw him pulling the bells.

Q. Did you see the Richmond coming?

A. Yes, sir.

Q. Did she approach you very rapidly?
A. Yes, sir.
Q. How long after his signal was crossed by the Richmond was it before he pulled the bell?
A. Immediately after the signal was crossed.
Q. What was the signal he gave?
A. He gave two blasts.
Q. How long after that was it before the Richmond answered?
A. Do you mean the first or second time he blew?
Q. The second time.
A. She crossed him immediately.
Q. Did they answer the first signal at all?
A. No.
Q. How many whistles did you hear altogether from the Richmond?
601 A. Do you mean after he had blown his whistle?
Q. Before or after.
A. After the cars had passed us, about the time we discovered the Richmond down in the bend, we heard one blow of a whistle, but could not tell whether it was from her, or where it was from—could not be positive about it. That was the only one we heard until she crossed our signal the second time. It was over the distance for one boat to blow for another at the time we heard the first blow.
Q. How far were the two boats apart when the Sabine blew her two first blasts?
A. About eight hundred yards, as far as I could judge.
Q. How was the Richmond bearing then?
A. She looked to be coming straight up the river.
Q. On which shore?
A. Nearer the bend shore.
Q. Does this map describe the position of the two boats when you first discovered her?
A. It does; where it is on the map the Sabine blew her whistle.
Q. How did the Richmond strike; at what angle; at a right angle, an acute angle, or how?
A. She came quartering into us; angling in; at an acute angle; close to a right angle.
Q. Can you put on the diagram the position of the two boats at the time that they struck?
(Witness does so.)
Q. How was the Sabine heading that time?
602 A. Down stream.
Q. How was the Richmond heading?
A. Across.
Q. How does the Sabine handle?
A. Very well.
Q. Why did you remain up there after your watch was over?
A. I wanted to stay up until we got to port.
Q. You expected to be in port at what time?
A. At three o'clock that morning.
Q. At what hour did the collision occur?
A. About two o'clock I should think.
Q. How far did the Richmond cut into the Sabine?
A. Into her capstan.
Q. Where did the Richmond go after she struck the Sabine.
A. She backed off into the middle of the river.

Q. How was she brought back?
A. By hailing.
Q. Did she respond to the hail the first time?
A. No, but the second time.
Q. You do not know why she did not respond to the first?
A. No.
Q. Within what distance could the Sabine have been stopped?
A. Backing her, I suppose she would check herself, loaded as she was, in three times her length.

Q. How long is she?
603 A. About a hundred and fifty feet, I believe; I do not know exactly.
Q. Would that stop her still, within that distance?
A. I think it would.
Q. Did the Sabine do everything on that night that it was possible for any boat to have done to avoid that collision?
A. I think she did.
Q. Could you see anything she could have done other than she did to avoid it?
A. No.

Cross-examined by Mr. M. M. COHEN:

Q. What you have drawn on the diagram represents the Sabine being struck on her starboard?
A. Yes, sir.
Q. Which boat run into the other—which boat received the blow and which gave the blow?
A. The Richmond gave the blow and the Sabine received it.
Q. Do you know anything of the injury to the Richmond by the collision?
A. Only what I heard; I only saw one knee broken; that was on her starboard side.
Q. Do you know what, if anything, stopped the Richmond from entering further into the Sabine at the time she gave her the blow, considering the size of the Richmond and the rate at which she was going, and the size of the Sabine; do you know anything that prevented the Richmond entering further into the Sabine than she did?
604 A. No, unless it was the cotton that kept her off, I suppose.
Q. How did that act so as to prevent the Richmond from entering further into the Sabine?
A. The guards I suppose came against the cotton.
Q. The guards of the Richmond?
A. Yes, sir.
Q. Do you know what was the cause of the injury to the Richmond that you stated, to her knee?
A. I think it was the cotton fell off on the Richmond that did it; it was broke down; I do not know what did it.

Cross-examined by GIVEN CAMPBELL, Esq., for the steamboat Richmond.

Q. What were you doing in the pilot-house of the Sabine at that time?
A. I was not doing anything.
Q. Why did not you go to bed?
A. I did not feel disposed to; I wanted to stay up until we got in port.
Q. Did anybody ask you to stay there?

A. Not at that time.
Q. At any time?
A. My partner requested me to stay up until we got in port.
Q. Why did he want you to stay up?
A. Nothing particular that I know of; nothing of any importance; wanted me to be up with him; that is all I know about it.
605 Q. Did your partner ever drink anything?
A. I have seen him drink.
Q. Did you see him drink anything that day?
A. No; I did not.
Q. Had he been drinking that day?
A. Not that I know of.
Q. Did you see any effect of it on him at that time?
A. No; I saw him take a drink that night—one drink.
Q. What time that night?
A. It was before twelve o'clock or about twelve o'clock.
Q. Do you know whether the water run over that boat's bow coming down stream?
A. I do not.
Q. Did you hear that it did?
A. No.
Q. Do you know whether there was any cotton on that boat where she got that blow?
A. The cotton was aft, where she was broke a little.
Q. How high up was that cotton piled on her in front?
A. Even with the roof.
Q. Was there any of the cotton on the hurricane roof?
A. No.
Q. Are you certain?
A. I am not positive; I cannot tell. I do not remember seeing any on the roof.
606 Q. Could you see the bow of the Sabine from the pilot-house?
A. No; you cannot see it without she is not loaded, nor you cannot see it when there is cotton in front of us.
Q. Was the cotton up to the hurricane roof all around on her guards and in front?
A. I cannot be positive, but I believe it was.
Q. Was not she loaded pretty deep?
A. Her guards, I suppose, would touch when she would be under way.
Q. Was not that about all she wanted of a load?
A. She could have carried more.
Q. How much more could she have carried?
A. I do not know. I have never seen her loaded to the water's edge.
Q. Do you know whether they ever had to back her out of the bank at any time coming down on that trip?
A. No.
Q. Have you heard?
A. I never heard.
Q. Do not you know her engines had to be slowed, coming down, to keep the water from running over?
A. Not while I was on watch.
Q. When you were not on watch?
A. No; only before we met the Richmond.

Q. Could anybody in the cabin look out and see what was going on in the river—look out of the windows of the state-rooms?

607 A. Yes; in the aft end of the cabin.

Q. Could they see the bow of the Sabine from the after end of the cabin?

A. No.

Q. Why?

A. The cotton, I suppose, prevented.

Q. Whereabout were the cars when you first saw them from the Sabine?

A. They were up above the point, on the opposite side, going down.

Q. What sort of lights did they have?

A. I did not notice; I could not see anything but ordinary lights.

Q. Could not you tell the difference between car-lights and the red and green signals of steamboats?

A. I could.

Q. Do not you know the light you saw coming up the river on the Richmond was not the light on the cars?

A. I could tell it was not, but I had no right to know.

Q. You could tell it was not the light of the cars?

A. Yes, sir.

Q. How far above the point was the Sabine when you first saw the red light?

Q. About four hundred yards above the point.

Q. Where was the Richmond when you first saw that light?

608 A. Down in the bend. I could just see her across, on the outside of the point; by looking across by the end of the point I could see her.

Q. How far off was she at that time?

A. About one mile, I guess.

Q. Whereabouts was she then?

A. She was down about—I could not tell where she was.

Q. Was she coming up the river?

A. Yes, sir.

Q. Pointing for the point?

A. No; not at that time. She was pointing right straight up the river, running up the bend.

Q. How could you tell which way she was pointing, a mile off, at night?

A. I could see the shores.

Q. You could see the shore where the Richmond was?

A. I could judge she was coming up the bend from where we were. I thought so.

Q. But you could not see which way she was heading?

A. Not until we got further down.

Q. When you got further down you could see she was heading across the river?

A. No.

Q. She was heading for the point, then?

A. No; she was heading up the river.

Q. The middle of the stream?

A. She was about two-thirds from the point side.

Q. Which way was she heading then?

609 A. Heading straight along up the river, it looked to me.

Q. Where were you then, when you saw she was heading up eth river?

A. We were just shaping around the point then, about Soniat Landing.

Q. Could you have swung your boat around, and pulled to the starboard, and gone into the bend, and avoided the collision?

A. If she crossed the signals at that time we could have done it; we were far enough away, then, but as she did not answer the signals, Mr. Harrison held his boat to the side he had whistled for.

Q. Were you on your right side of the river, at that running along under that point?

A. We were not under the point at that time.

Q. Were you in your right position in the river?

A. We were.

Q. Close to that point?

A. We were not too close.

Q. When you blew for the Richmond, for you to take the larboard, was that your proper position coming down the river?

A. As the Richmond was so far in the bend, there was more room for us on the larboard side.

Q. Was that your proper position coming down the river, for a descending boat?

A. Yes, sir.

Q. That is your opinion?

A. Yes, sir.

610 Q. Do you not know, from your limited experience on the river, that the proper place for a descending boat coming around Twelve Mile Point is to hold out into the stream and go with the current?

A. We were running with the current.

Q. Do you not know that is the proper place for a descending boat to run with the current?

A. If she wants to make time, it is.

Q. Is not that the proper place?

A. We were in our proper place.

Q. Is not it the proper place for a descending boat, coming down the river above Twelve Mile Point, to hold out in the current?

A. The current holds to that shore until it comes to the point and then runs over to the bend.

Q. The current turns off from the point above the point?

A. On the top side of the point, at Soniat's.

Q. It leaves the point there. Then your proper place for a descending boat would be to leave that point at Soniat's and hold out into the stream?

A. Yes, sir.

Q. Do not you know that an ascending boat is entitled to the shore?

A. Yes, sir; but she was not in her proper place.

Q. Do not you know that an ascending boat is entitled to the shore?

A. It is customary.

Q. Do not you know that it is the proper place, according to law?

611 A. It is customary.

Q. Are you familiar with the rules of the inspectors for the navigation of the Mississippi River, under the act of Congress of February 28th, 1871?

A. With some of them.

Q. Do you know what the first rule is?

A. In regard to what?

Q. Do you not know what the first rule is?

A. I do not know that I do, unless it is in regard to running in the channels.

Q. Do you know what the fourth rule is?

A. I have read it often, but do not remember what it is now.

Q. If you were coming down with your boat, approaching Twelve Mile Point, and should stop your engines and let her float, what part of the river would she float into?

A. If there was no wind?

Q. Yes, sir.

A. She would go towards the bend, I suppose.

Q. The current goes that way?

A. Yes, sir.

Q. Do not you know that the proper place for a descending boat is to keep in the current?

A. Sometimes they do, and sometimes they do not.

Q. Do you not know that is the proper place for a descending boat?

A. If there is no other boat in view she can go where she like. But if there is any boat coming, it is the proper place, provided she is under the point.

612 Q. How far apart were you when you heard the first signal from the Richmond?

A. About one mile, I think.

Q. What was that signal?

A. One blast of the whistle.

Q. What did you say to the pilot at the wheel of the Sabine at that time?

A. I spoke to him and said "I do not know what he is blowing for, except for that train;" I did not say anything for a second or so, and I told him, "she must certain be blowing for you;" he said it was too far away he thought. He went on down to where, and, as I just now stated, he blew his signal for the larboard side.

Q. Before he blew that signal for the larboard side, did not you tell him there was a boat coming up the river?

A. I do not remember; I did tell him there was a boat coming up the river, for we were speaking about the light. He remarked it looked as if she had only one signal.

Q. Did not you tell him he had better answer that boat?

A. I told him I thought she was blowing for him; I do not remember I told him he had better answer.

Q. Did not you give your testimony in this case before the inspectors?

A. I did.

Q. When?

A. About ten days since, I reckon.

613 Q. Recollect distinctly; did not you tell Harrison, the pilot on watch on the Sabine, "There comes a boat up the river," or words tot hat effect?

A. I spoke to him in regard to the boat; I do not remember what I said.

Q. Did not you tell him he had better answer that boat's signal, or words to that effect?

A. I might have told him so.

Q. What did he reply then?

A. I do not remember.

Q. How long after that was it before he answered that signal?
A. But a short time. I do not know how long it was.
Q. And then he blew two?
A. Yes, sir.
Q. Then he crossed the Richmond's signal first, did not he?
A. He did not answer the one, the first was made, because it was too far away and he did not think it was intended for him.
Q. He crossed that signal?
A. He blew twice, the other boat only blew once.
Q. I ask you this question; your boat crossed the signal first, did not she; yes or no?
A. The one we first heard, he did not know positive whether it was for him or not.
Q. He crossed it?
A. He blew two whistles.
Q. He blew two whistles, to the other boat's one?
614 A. Yes, sir.
Q. That is crossing the signals?
A. Yes, sir.
Q. How long before you heard that first signal, that he did not know what it was, that you saw that red light you speak of?
A. I suppose it was about the time we saw the light that we heard the signal.
Q. Did not you see the light first?
A. I believe I did.
Q. How long first?
A. But a short time.
Q. About how long?
A. I suppose it was two or three minutes.
Q. Then you told your partner, "There is a boat coming up the river"?
A. That is what I stated just now.
Q. And then you heard a whistle; and he said he thought that was too far off?
A. Yes, sir.
Q. How far was the boat off when you first saw that red light?
A. A little over a mile.
Q. How far off was she when you heard that first signal?
A. About a mile.
Q. Could you tell the distance at night?
A. As well as I could judge; of course not.
Q. When you first heard that signal, could not you have pulled your boat over to the right?
615 A. Yes; plenty of time, provided we knew it was intended for the Sabine.
Q. That was an unfortunate mistake for the pilot of the Sabine, to mistake that signal?
A. It seems so.
Q. How far had the Sabine gone down the river, after she heard that signal, before she sounded her two whistles?
A. I suppose she run, as far as I could judge, three or four hundred yards.
Q. How long would it take her to run three or four hundred yards?
A. I cannot tell.
Q. You said a while ago three or four minutes; would not she run further than that in that time; say whether she would or not.
A. Yes, sir; she would run further than that in three or four minutes;

she will go further than three or four hundred yards in three or four minutes.

Q. Was that the time between the first signal you heard, which you said you did not know was intended for the Sabine, and the time the Sabine blew her two blasts?

A. Three or four minutes, I should judge.

Q. How far would she go down the river in that time, running at the rate of ten miles an hour?

A. She was not making ten miles an hour, I think.

Q. How far would she go in three or four minutes down the river at the speed she was then at?

616 A. She would go something over a quarter of a mile.

Q. Would not she go fully half a mile in three or four minutes.

A. No, I do not think she would.

Q. Was not she running at least eight miles an hour?

A. I do not think she was making over eight miles an hour.

Q. How could you calculate, you would come from Twelve Mile Point to New Orleans inside of an hour?

A. We miss our calculations very often; we made that calculation when we were further up the river, thinking we would get in by three. I knew when we were there at the point that we would not get in by three.

Q. Whereabouts was your boat at the time you heard this first signal of the Richmond?

A. She was about, I suppose, half a mile up in the reach above the point. Hardly so far.

Q. Why do you make a difference in your calculation now? Did not you say three or four hundred yards in your direct examination?

A. Did not you ask when I first saw the light?

Q. No; but when you first heard the signal.

A. A quarter of a mile above the point, then.

Q. Then you had gone down the river between a quarter and a half mile before you sounded your signal?

A. After hearing the signal, we run a short distance before making any reply.

617 Q. Three or four minutes?

A. Yes, sir.

Q. And you said in answer to my question, how far you would go in three our four minutes, between a quarter and half a mile. Where would that put you then?

A. Down about the point—the first turn of the point, where I could see around the point.

Q. That is not more than four hundred yards from where you were at the time you heard the signal?

A. That is about a quarter of a mile.

Q. Would not she run more than a quarter of a mile in three or four minutes?

A. I am guessing at the *the* time; I do not know exactly how long it was.

Q. Then you were about abreast of the point when you sounded your two signals?

A. Not exactly; a little above the point, just beginning to shape around the river; about the upper edge of the point.

Q. How long after that before the Richmond sounded her other single signal?

A. But a short time. The Sabine sounded her signals again and then the Richmond.

Q. How long after?

A. About a minute or so.

Q. At the time you heard the Richmond's first signal, when you were above the point and saw that red light, could not you have very readily held your boat in towards the bend, and avoided the collision?

618 A. Yes; if we had known the whistle was intended for the Sabine.

Q. Did not you think it was intended for the Sabine, and did not you then say so?

A. No, I did not; because she was too far away.

Q. Did not you just state that you said to your partner, you thought that was intended for his boat?

A. When I heard it, I did not, but afterwards.

Q. How long afterwards?

A. A few minutes; I cannot tell exactly; I do not know.

Q. How long after you heard this signal was it before you made that remark to your partner?

A. A short time.

Q. Did not you turn around and say, that boat is blowing for us?

A. I did, about a minute.

Q. Did not you say you thought that boat was blowing for us?

A. I told him I thought she was blowing for him; I do not remember telling him he had better answer.

Q. At that time, could not you have held out into the bend?

A. Yes, sir; but we did not consider it was for us.

Q. Did not you tell a gentleman, in New Orleans (Captain Carlton, of the Mayflower), that you were in the pilot-house at the time of the collision, and not on watch; and that you heard the Richmond blow for the starboard side two distinct times—one blow each

619 time—before the pilot of the Sabine answered the first time?

A. No; I never told him so.

Q. Did not you tell him that you heard the Richmond blow for the starboard side, and that you told your partner he better answer that signal?

A. I told him I heard one blast of the whistle, and told him I thought she was blowing for him.

Q. Did not you tell Captain Carlton that you told your partner he better answer that signal?

A. I was speaking to him in regard to it; I do not remember whether I told him that or not. I was speaking to him about it.

Q. Well, words to that effect?

A. Yes, sir, I believe so; I told him I thought she was blowing for him.

Q. In your conversation with Captain Carlton, did not you indicate to him, by your conversation, that the Sabine was in the wrong position and in fault?

A. I do not know how he construed it; I did not tell him that.

Q. Would not your conversation, that you had with him, make that impression on his mind?

A. I do not know that it would.

Q. Did not you intend to make that impression on his mind?

A. No.

Q. Did not you state before the inspectors, in your testimony, that you saw the Richmond near Nine Mile Point?

A. No.

620 Q. Are you positive of that?

A. I did not state anything of that kind, that I remember.

Q. And that you only saw one red light?

A. I stated that I saw two red lights.

Q. Has a pilot any right coming down a river when he sees one red signal light, and cannot see the green one, to suppose there is no green light there?

A. If he cannot see it, he has a right to suppose there is none there.

Q. Would not you stop your boat, and think there was something wrong?

A. I do not know I would stop my boat because I only saw one light.

Q. Would not you suppose she was in such a position as to hide the green light?

A. She could not well have done that coming up the river—heading up the river anyways.

Q. Was not the boat coming up the river when you saw her?

A. She was.

Q. Why did not you see the green light?

A. I do not know.

Q. Cannot you see a green light as far as you can see a red light?

A. No.

Q. Is there any difference in men's eyes, in yours particularly, in your experience as pilot?

A. I do not know about that.

621 Q. If the Richmond was making the crossing, would not that be the only light you could see?

A. No, we could see both; if they were fixed we could see both.

Q. Are they not fixed on the outside of each chimney?

A. Not exactly on the outside; they are fixed so they can be seen from aft.

Q. Aft and front both?

A. From the aft end of the boat.

Q. And from the forward part too?

A. Yes, sir.

Q. Having to be on the outside of the chimney, you could not see it if fixed in front of the chimney, from the aft end of the boat?

A. Not if fixed forward of the chimney, no.

Q. In its proper place, should not it be fixed so that you could equally see it from the stern and the bow?

A. Yes, sir.

Q. If it was fixed on the outside of her chimney, and the green light is on the starboard side, and the Richmond is making the crossing, would not he chimney be between you and that green light?

A. No; you could have seen both of them; the lights are put so far forward of the chimney that you can see them right or left, on either side of the boat.

Q. Whereabouts was the Richmond when she commenced to make her crossing?

A. In below Mrs. Waggerman's.

622 Q. How far below?

A. I could not tell exactly how far, but a short distance; about a quarter of a mile below Mrs. Waggerman's.

Q. How far out in the river was she at that time?

A. I should say about one-third of the way out from the bend shore.

Q. She commenced to make the crossing there?

Q. What direction was she backing in?

A. I cannot tell. She was backing up the river; her stern was up the river.

Q. Straight up the river?

A. Very nearly so.

Q. Did not you swear a while ago you did not know whether the boat was backing or not?

A. I saw him ring his bells. I said I did not hear them.

Q. Do you know the boat was backing?

A. No, I do not know; I could not swear she was. She was held that way to back up stream.

Q. Was her head inclined in towards the shore?

A. A little; I cannot tell how much; I do not know how much.

Q. In coming around the point, do not you have to hold her head in towards the shore?

A. Coming around the point we would.

Q. Had not you come around the point?

A. We had come around the point.

Q. Did not you have to hold her head in under the point to get around?

A. Not very close.

Q. You had to hold her head in more or less, had not you?

628 A. She was swinging towards the point at the time the collision occurred—that is, a little towards that shore.

Q. You were trying to take that shore?

A. Yes, sir; had blowed for it. We were trying to go down that side of the Richmond.

Q. Do you know whether your boat's head was in slack water at the time you were trying to take the shore?

A. I cannot tell.

Q. If her head was in slack water and her stern in the current, what effect would it have on her?

A. She would be inclined to swing some.

Q. Did you look back to see the direction in which she was backing?

A. No; I do not know that I did.

Q. Were not you watching the Richmond?

A. Yes, sir. I came out of the pilot-house after he started ahead, after they lapped. Her stern was up the river when they struck.

Q. How do you know it if you were not looking?

A. I could tell pretty much by her head.

Q. Was not her head pointed towards the shore?

A. Quartering towards the shore, down the river.

Q. Pointing towards the shore under the point?

A. We had made the point; came around.

Q. That is a pretty sharp point, is not it?

A. Tolerably sharp.

Q. Which way was the wind blowing that night?

A. I did not notice.

629 Q. Was not it blowing pretty sharp the time the accident occurred?

A. I did not pay any attention to that.

Q. After you got outside of the pilot house did not you find the wind was blowing?

A. I never noticed anything about the wind than the wind was blowing some, but I did not notice in what direction; I could not tell.

Q. Do not you know there was a great deal of that cotton stopped right there in the water in the neighborhood of where that boat sunk?

A. I saw some cotton above us next morning.
Q. In the slack water?
A. It was in above us along by the shore.
Q. You had dropped down next morning from where the accident occurred?
A. Yes, sir.
Q. Where was this cotton—about where the accident occurred?
A. Yes, sir; as well as I could tell. I was asleep when she moved away, but the cotton I could see was above us where we were.
Q. If you were asleep when she moved away how do you know the Richmond pulled her adrift?
A. When they were moving away they woke me up, and they were lashed together. She was moving with her, and they were trying to get her in again.

Q. How do you know they swung off if you were asleep?
630 A. About the time they were swinging off, when she started to get off, I was inside the cabin and came out as she swung off with her.
Q. Did not the Richmond have lines out to the shore?
A. I think not; I did not see any out.
Q. Do you know whether the Richmond fastened a line to the hog chains of the Sabine on top?
A. No, I did not notice any lines out there.
Q. Do you not know that the Richmond passed lines to the top of the Sabine, to keep her from turning over?
A. I did not notice. But she did have a line out on the derrick after she landed on the bar.
Q. Answer me this one question: If your boat's head was straight down the river, at the time this accident occurred, how could the Richmond, coming straight across the river, hit her in such a way as to make her cut quartering in towards her bow?
A. I do not know how she could do it.
Q. Do not the cut look that way?
A. Yes, sir; the cut looks as if it was that way, to look at the break in the boat.
Q. Do not it look like the Richmond came down stream and struck her, if your boat was straight in the river?
A. The way the mark is, no; I judge she could not be coming down.

Q. Quartering down, I say. (Witness describes with his hand
631 how she was coming.) It looks as if your boat was head down stream, and the Richmond was quartering up the stream.
A. Yes, sir.
Q. Why would not that cut have extended from the rear to the front, instead of from the front to the rear?
A. I do not know.
Q. Do not it look as if it run in from the starboard quarter towards the bits?
A. It looks to me as if it come in quartering back.
Q. What do you mean by quartering back?
A. Struck her forwards and raking back towards the steps; quartering across her deck.
Q. Would not that have carried away all her forward chock and entirely displace the timbers between the break and the bow of the Sabine?
A. I could not tell you whether it would or not.

Redirect for the Sabine:

Q. When you first heard the whistle that night, did you know what it was?

A. I could not be positive what it was; I knew it was a steam whistle.

Q. Were you watching the navigation of your boat as closely as the pilot was at the wheel?

A. No; I was not.

Q. When you got up in the morning, did you see cotton below you as well as above you?

A. Yes, sir.

632 Q. Which was there most cotton, above or below you?

A. I cannot tell?

Q. But you saw it both above and below you?

A. Yes, sir.

Q. Could you tell whether your boat had swung around before she received the blow from the Richmond or not?

A. She had not swung around.

Q. Can you tell whether she had straightened up with the shore or not, after rounding the point?

A. She was heading pretty nearly down with the shore; quartering a little towards the shore.

Q. Did you see whereabouts the Richmond struck you first; what part of the Richmond came in contact with what part of the Sabine first?

A. It seemed to me she struck us with the stem forward somewhere; I could not tell where at exactly.

Q. You have been asked about a conversation with Captain Carlton; did Captain Carlton come to you to interrogate you about this collision?

A. He was asking me about it.

Q. Did he come to you to ask you about it?

A. I met him and he spoke to me and asked me about it; I do not know if it was his intention when he came to me.

Q. Did you go into a full detail of the collision?

A. I told him something; I do not remember what I did tell him.

Q. Did you detail all the facts of the collision?

633 A. I do not remember; I do not think I did.

Q. When the Richmond struck your boat, did it turn your boat more into the shore than it was before, or toward the shore?

A. It turned us towards the shore.

Q. After you received that blow, did you notice how your boat was heading then?

A. She swung around and lapped alongside of the Richmond, and was heading pretty nearly to the shore.

Q. Did her stern then go down stream?

A. Yes, sir.

Q. And lapped right alongside of the Richmond?

A. Yes, sir; it looked to me that was the way she came around.

Q. Did the cotton fall off before she swung round that way?

A. About the time she first struck, the cotton went over.

Q. Did the two boats come together very rapidly, very quick?

A. Yes, sir; very quick.

Q. Did you notice whether the hull of the Sabine was broken by that swinging or not?

A. No, I never noticed.

Q. Can you tell whether the Richmond started to make her crossing before or after the whistle from the Sabine?

A. It was after she blowed her whistle—it looked to me that.

Q. She started to make her crossing after that time?

634 A. Yes, sir. After the Sabine had blowed her whistle.

Q. Was it after or before the Richmond commenced making her crossing you heard the last signal which the Richmond gave?

A. It was after she had started to cross.

Q. After she started to cross the river, was there or not space enough for the Sabine to have gotten out and gone round to the bend side of the Richmond?

A. She was too far then, she could not get out then—they were too close together; I mean—could not get out then.

Q. The boats were too close together?

A. Yes, sir.

Q. From the position in which the Richmond was when she commenced making her crossing, could she have seen whether the Sabine was above or below the point?

A. I think she could. I could not tell whether she could or not.

Q. Does not the shape of the shore along there indicate whether it was above or below the point?

A. I should think from where they were they could have told where she was; but whether she was above or below the point or not, I do not know.

Q. Can you tell where she was?

A. She was very near the other shore. She was coming across then. She was about a quarter of a mile below Mrs. Waggerman's when she commenced to cross, as well as I could judge.

635 Q. When you are about half a mile above the point, above Soniat's, and coming down the river, how far could you see a boat in the reach below Twelve Mile Point at night?

A. I suppose we could see a boat half a mile or three-quarters down below the point.

Q. When you are half a mile above the point, you could see a boat half a mile in the reach below?

A. Yes, sir.

Q. You could not see her at all, if she was on Twelve Mile Point side?

A. No; you could see her signal lights across the point, if she had been under the point.

Q. Tell us whether or not you saw the lights of the Richmond across Twelve Mile Point.

A. I did not see them across the point that night at all; I never noticed them until I saw her in the bend.

Q. And you are sure you are not mistaken in her position, that she was in the bend near Mrs. Waggerman's when you first saw her light?

A. She was nearer the bend than the point shore when I first saw her; one-third from the bend shore.

Q. If she had made the usual crossing, where would she have started to cross?

A. Down about Kennedy's.

Q. How far do you think Kennedy's is below Mrs. Waggerman's?

A. About two miles, I think; I cannot tell exactly the distance; but I think it is about two miles.

636 Q. If she had started to cross in that way, where would she

have turned in on the right hand shore and straightened up with that shore—starting across from Kennedy's.

A. I do not know what kind of a crossing she makes—might make a long or a short crossing.

JOHN DOUGLASS, being duly sworn for libellants, deposes and says:

I was on the Sabine in the capacity of watchman, at the time of the collision with the Richmond.

I trimmed the guard lights the night of the collision about a quarter of one o'clock. After making the twelve o'clock watch, I always went round and trimmed all the lamps.

I was on the roof, standing on the hurricane deck, at the time the collision occurred; on the starboard side, forward of the chimneys; I suppose I had been there from fifteen to twenty minutes.

When I first saw the light of the Richmond, she was coming up the left hand shore, ascending; I saw the red light and no other. At the time I saw this light, I suppose the Richmond was three hundred yards off; I heard no signal from her but one whistle; I heard two whistles from our boat, and in about two or three minutes two more. The Richmond never blew at all, that I could hear, after we blew our four whistles. When I saw the Richmond coming towards our boat, she was quartering across the river.

637 I heard the stopping bells of the Sabine, and I heard the gong. The gong is to stop and back. I heard this gong after I heard the whistles of our boat.

I stood where I was until after the collision occurred. The Richmond struck us on our starboard, about three feet forward of the cotton. She run into us, and after the crash the cotton fell off, part on her bow and part in the river, and she backed out.

I looked at the left hand shore coming down; I suppose it was between forty and fifty yards off. At the time the Richmond struck us, the head of the Sabine was pointing down stream. The Richmond was pointing to the bow of the Sabine. The Richmond came quartering into us. We bore down stream also. The Richmond was pointing to the shore at the time of the collision. I saw no one on the deck of the Richmond. I noticed and saw not a soul. I could not see into the pilot-house.

I did not see the mate of the Sabine; I was not looking for him; I was looking at the Richmond. The Sabine was backing at the time of the collision; I looked at the shore and saw her backing; she had stern way.

I did not hear the Richmond's bells ring that night. I have no idea how fast she was going. I saw the bows of the Richmond. I suppose her bows stood about seven feet above the water to the top of the deck. The Sabine's stood about two feet to the top of the nozing. I saw the stem of the Richmond, but not the Sabine. It was a heavy blow—it crushed her hull and mashed. The Richmond swung after the

638 blow. Her stern swung up against the Sabine. I did not notice a knee broken in the Sabine.

Cross-examined:

I live in Cincinnati. I had been on the Sabine from the 28th day of December till 11th of February. Was paid wages up to 27th of January. I am eighteen years old the 26th of December. I have been on the river seven years; deck sweeper five years, and two years watchman.

I saw the sky-lights of the Richmond. When I first saw the Richmond, the Sabine was about twenty-five yards from the left-hand shore, coming down. At that time the Richmond was coming quartering across the river. She was quartering down stream. At the time of the collision, there was no one on the hurricane deck of the Sabine except myself. If there had been others I would not have seen them, because I was looking at the Richmond. I had been on the hurricane deck fifteen or twenty minutes before the collision, and ten before I saw the Richmond. During those ten minutes I was doing nothing in particular; setting on a bale of cotton. During those ten minutes there was nothing to prevent my seeing any one else, if he had been there, unless they had been aft of the chimneys. There were a few bales, eight or nine on the roof, and a few hides on the top of that.

It was seven or eight minutes after I saw the Richmond, before the collision. The Sabine was going seven or eight miles an hour,
639 when I first saw the Richmond. Nothing particular brought me on the deck. My watch lasted from five and a half o'clock in the evening till seven o'clock in the morning.

When the last whistle of the Sabine was blown, the two boats were one hundred yards apart. I heard the whistle of the Richmond not more than a minute before the crash.

I could see distinct*ed*ly down the river. I could not see distinctly the objects on the shore. I could see distinctly the channel of the river, down the river, down the stream for three or four hundred yards. I could see both shores.

I could see best the left-hand shore coming down. I could not see the prow of the Richmond when she struck; but I could not see it very plainly.

How far could the Sabine go, going down stream at the rate of seven or eight miles an hour, after she commenced backing before she would stop or get stern way?

A. Two or three hundred feet.

I saw no reason for the Richmond coming quartering across the river.

The Sabine did not commence backing till after she blew her second signal.

It was five or six minutes between the Sabine's first and second signals. At the time of the collision, it was a clear night, starlight and calm, a very little wind, not enough to make waves in the water.

The Sabine seemed to be going to the right bend shore, down.
640 She had just started across the river, when she blew the second whistle. She had gone in that distance more than one length of herself. Before that she was coming down the left-hand shore, thirty or thirty-five yards from the shore. She had turned the point and was under it when she started across the river. She started across to follow the channel, I suppose, no other reason.

The Richmond seemed to have been following the course she was on at the time of the collision, for eight minutes.

Re-examined:

I am not anything of a pilot. I know nothing about the river where the collision occurred, but I have been up and down very often.

JOHN DOUGLASS.

Sworn to and subscribed before me this 28th day of February, 1872.

M. M. COHEN,
U. S. Commissioner.

DURBIN TRUNNELL, being duly sworn for libellants, deposes and says:

I am mate; was mate of the Sabine. I was on her from the 28th of October up to the time of the collision. It was my watch at the time this collision occurred. I came on watch at one o'clock; relieved the captain, but saw him once after that.

641 I did not see anything of the railroad cars the night of the collision. I do not know Twelve Mile Point when I see it, and do not know how our boat was running. I did not see the light of the boat ahead of us coming up.

After I had been on watch awhile I left the roof to go down forward on the lower deck; when I got near the bottom of the steps I saw a light in the hold; saw a man coming out of the hold with a light in his hand; I called to know who it was. He answered, and I found it to be my deck hand, Malone; I asked him what he was doing in the hold; said he had been down to see if there was any water in her; I asked him if there was; he says, "no, sir, not an inch." He then came to the steps where I was standing on the steps. We were talking about a lamp that hung right in the gang-way; I asked him if it had been filled, etc.; I stood there and talked to him a moment or two, when I heard the whistles of the Sabine. I immediately walked back on the hurricane roof of the Sabine. I went on the roof, looked around, did not see anything; walked forward on the hurricane roof. At that time two whistles from the Sabine blew again; two short whistles. I then looked again and saw somethi'g approaching us to the starboard, some distance off. I remarked to the pilot, "In the name of God, what is that thing doing?" I saw no light about her; she looked to me as if she was coming right square across the river, and would strike us about the boilers, if she got to us. I remarked to the pilot to stop her and back her strong. He said

642 she was backing strong, and had been backing, or something to that amount. I then stepped out on the stage, on the top of the cotton, forward of the hurricane roof.

I looked again, looking at the boat, and thought it was the Belle Lee. I concluded that if we were backing strong, as the Sabine backs strong, she might possibly miss us.

She was pointing at first at our boilers, but we must have backed out from that, because as we were backing I thought she might miss. I remained on the stage until she got within jumping distance. I saw then she was going to strike us about our cavil. I stepped back on the hurricane roof; by the time I got on the roof the collision occurred. Both boats swung together. I then discovered a red light as she swung round; both boats swung round.

When both boats swung round the Richmond backed out in the river, as I thought, with her head a little ways down stream. I then told the pilot to stop her and go ahead and get her into the shore if he could. I remarked to the pilot to blow for assistance to come and take our passengers off. The whistles were blown and answered by the Richmond, and she came alongside about the time we got to the shore, or soon after.

Q. Did your engines go ahead after the collision?

A. I think they did.

Q. How far from the shore did the Sabine ground?

A. After the collision?

Q. Yes.

643 A. I don't know, sir, how far from the shore; it was not very far from the shore, but I cannot tell how far now.

Q. When you got out on the stage forward of the hurricane roof, just before the collision, did you observe what way the head of the Sabine was pointing?

A. Yes.

Q. Which way?

A. Pointing down the river.

Q. Do you know whether she had swung round towards the shore?

A. At that time?

Q. Yes.

A. No, sir; she had not.

Q. How does the Sabine handle?

A. She handles as fine as any stern-wheel boat I ever found out.

Q. How about her power?

A. Well, sir, she has got good power.

Q. Have you ever made a trip on the Sabine with a full load before this trip?

A. Yes, sir; with deeper loads than this time.

Q. How long ago was that?

A. The last trip before this.

Q. How many bales of cotton were on board that trip?

A. I can't answer that; I had ten tier then and only nine this time.

Q. You had ten tier then and only nine this time?

644 A. Yes, sir.

Q. Did you observe whether the load you had on this trip prevented the proper management of the boat?

A. No, sir; I noticed that it didn't.

Q. How far were her guards out of the water with this load on?

A. About four inches; I noticed at Bayou Sara; I thought that just under way she would touch.

Q. Is it at all uncommon for cotton boats on the Mississippi River to load down until their guards come down to the water?

A. Yes, sir; I have seen boats with cotton on with the guards in the water when still.

Q. Then, sir, can you state whether the Sabine on this occasion was overloaded?

A. I can state.

Q. Was she or not?

A. No, sir; not near loaded.

Q. Not near loaded?

A. No; we don't consider a boat nearly loaded—a majority of steamboatmen don't—till her guards are completely in the water.

Q. How many more bales do you think you could have brought on this trip?

A. Two hundred and fifty, I think, with safety.

Q. How long have you been steamboating?

A. Between fifteen and eighteen years.

Q. How long have you been mate of a boat?

A. Eeleven or twelve years.

645 Q. I ask you, as a judge, whether the Sabine was overloaded?

A. No, sir.

Q. Mr. Trunnelle, did you observe whether the officers whose business it was to be on watch were on watch at this time on the Sabine?

A. All the officers were. I didn't go down in the engine-room, but I know that the pilots were on watch.

Q. Do you know whether the signal lights were burning properly at the time the collision occurred?

A. Yes; that's the first thing I always look to when I come on watch if the signals are in order.

Q. When you went out on the hurricane roof, before the collision, did you observe the Richmond?

A. I didn't.

Q. Which way did you have to look to see the Richmond?

A. To the starboard.

Q. At that time, sir, how was the Richmond heading with respect to the Sabine?

A. When first I seen her, she looked as if she was heading for the boilers. I could see no light, but saw the dark of the boat.

Q. Did you observe whether there was any extraordinary gale that night?

A. No; after I come on watch the wind freshened.

Q. Did you observe whether it was a very dark night, or whether the stars shone?

646 A. The stars shone all the time, but it was a kind of windy and dark; but you could see the stars between the clouds; and there was a little shower.

Q. Now, Mr. Trunnelle, have you examined, since she was raised, the wounds the Sabine received?

A. Yes; I looked at her.

Q. Now, sir, give us some description of that wound.

A. I believe they have had a photograph taken. You can tell better by a look at that picture than by my telling you, couldn't you?

Q. Have you examined these photographs?

A. Yes.

Q. You are satisfied of their correctness?

A. Yes.

Q. Please to state what part of the Richmond struck what part of the Sabine?

A. The stem struck our starboard bow, right by the cavil. I was standing on the stage. It hadn't touched when I jumped off.

Q. This stage that you were standing on was on top of the cotton.

A. Yes; forward.

Q. Forward the hurricane roof?

A. Yes.

Q. What became of that stage?

A. It went down with the forward tier of cotton.

Q. Then the forward tier of cotton fell?

A. Yes, sir; it went down.

Q. You say it was not the forward tier that fell?

A. Yes, half the forward tier fell.

647 Q. And that was the cotton that went onto the guard of the Richmond?

A. Yes; I don't know what part of the cotton fell on the Richmond.

Q. How near up to the capstan of the Sabine did your cotton come?

A. It come within about three and a half feet.

Q. Then, sir, can you state whether the stem of the Richmond came into contact with the Sabine?

A. Yes; it struck forward of the cotton.

Q. How far did she cut into the Sabine?

A. Well, sir, I see she is cut to the kelson. I didn't stand there then. I see she is cut down from near the water to the kelson.

Q. What effect had the blow on the capstan?

A. It knocked the capstan down.

Q. Have you made any measurement of the extent of this wound?
A. No, sir; I didn't.
Q. Can you tell from the appearance of it whether that blow ranged forward or aft?
A. It ranged right square in, if I've ever seen anything square.
Q. Do you know what it was that broke the larboard knee of the Richmond?
A. I didn't see what knocked the knee of the Richmond down.
Q. Did you see whether the Sabine was cut into, or whether her sides cut in when the two boats swung together?
648 A. I see where she is cut in; but she couldn't cut in like a knife with the sides. Of course a powerful boat would have a tendency to shove the Sabine round.
Q. Are you able to state when you saw the Richmond first whether she was running up the right-hand shore or not?
A. When I first seen her she was off from the shore. She must have been near in the middle of the river.
Q. That was off to your starboard, and near the middle of the river?
A. Yes.
Q. Which shore was your boat nearest to?
A. I never noticed her being near the shore till she struck. She was then near the larboard shore, coming down.
Q. Have you any idea how far from the larboard shore?
A. I did not notice, sir, till afterwards.
Q. When you told him to go ahead on her, did you notice how far it was then?
A. I did not notice how far it was then.
Q. Well, sir, after the Sabine grounded and the Richmond came alongside her, what happened?
A. I don't know that anything particular happened. I stood on our roof, and the captain came out by that time. I asked them to pass a line over if they could. I could not say anything much that was
649 said after that, because I did not pay much attention. They was a good while getting the Richmond alongside. I was afraid she would go down.
Q. It has been proven in this case, that the Sabine was raised at a point some distance below where the collision occurred; how did she get there?
A. Where they raised her from?
Q. Yes.
A. Well, she floated down there with the Richmond, and the Richmond was alongside all the time.
Q. They drifted together?
A. Yes; they were side and side nearly all the time.
Q. Are you able to say how deep the water was where the Sabine first grounded after the blow?
A. Before the Richmond came alongside?
Q. Where she sank.
A. As soon as the Richmond came up, I took a lead line and found there was about twenty-one feet.
Q. That was when first you ran in; after the collision?
A. When we first sunk, I could not tell; but as soon as the Richmond came alongside, I measured afterwards.
Q. Was it after or before daylight that you got away from that place and commenced drifting down the river?
A. After daylight.

Q. Were you up?
A. Yes; I never went to bed.
Q. How close were you into the shore then?
650 A. I cannot tell; we were some distance off, but I cannot say how far.
Q. Near enough to get a line out?
A. We could get a long line out.
Q. Was it done?
A. The Sabine's hawser went ashore from the Richmond.
Q. Was it fastened?
A. I cannot say; the mate or second mate went out in the yawl with it.
Q. Do you know how long that hawser is?
A. I do not.
Q. It is the usual length of those hawsers?
A. Yes; from six to nine hundred feet in length.

Cross-examined by Mr. CAMPELL, for the Richmond:

Q. Mr. Trunnelle, who was on the hurricane roof when you went up there?
A. I didn't notice any person.
Q. Had there been anybody there, would you have noticed them?
A. I don't think I would, under the circumstances. I heard the whistle blow. I didn't pay any attention to anything else. Sometimes the watchman is there; but I didn't see him. I had some cotton on the roof. I went below to look for the watchman.
Q. Did you measure to see how many inches there were between that boat's guards and the water?
A. Which boat's?
651 Q. The Sabine's.
A. No, sir.
Q. Do you know whether or not she had to slow her engines that trip, to keep the water from running over her bow?
A. Not to my knowledge, while I was on her bow.
Q. Do you know how deep two hundred and fifty bales would sink her?
A. I think about four inches.
Q. How much water does she draw light?
A. I never noticed, but I should think twenty-eight or twenty-nine inches aft, and sixteen or seventeen forward.
Q. How many feet would she draw if loaded to her full capacity?
A. I have had her loaded to six feet, but there is no mark after you get to four feet.
Q. How deep is her hold?
A. I don't know how deep: you can head cotton in.
Q. Is the hold six feet deep?
A. No, sir.
Q. Five feet?
A. I don't think it is, midships. There's no mark on her at six feet. I had to spar her on six feet coming out of the Ohio River.
Q. How many inches would fifteen hundred bales of cotton sink her?
A. I don't know, sir; I have never tried her.
Q. You think two hundred and fifty would sink her about four inches?
652 A. I don't know whether it would or not. I think two hundred and fifty would put her to the guards from where we had her. She's never been loaded since I've been on her.

Q. How many bales of cotton would it take to sink her three feet?
A. Three feet?
Q. Yes.
A. I had four hundred and thirteen bales on thirty inches this last trip. I never paid much attention. She will trim up on that.
Q. Now, don't you know that two hundred and fifty bales would sink her more than four inches?
A. Not when she's near the guards. When boats are near the guards they just begin to get to their bearings.
Q. How far were the boats apart when you went up on the roof?
A. I didn't see the Richmond when first I went up on the roof.
Q. Which direction was she coming when you first saw her?
A. From the right-hand shore—the right-hand shore coming down the Richmond was.
Q. Which direction?
A. Square across the Sabine.
Q. Towards what point of the compass?
A. I don't know; but she was coming as near square as I could see in the dark.
653 Q. Did you give your testimony before the inspectors in this particular, relative to the collision between these two boats?
A. Yes, I said something about it.
Q. Did you give true testimony then?
A. I think I did.
Q. About how far was the Richmond from the Sabine when you first saw her?
A. I cannot tell how far she was off; I could just see her chimneys.
Q. Didn't you swear to the distance before the inspectors?
A. I don't think that I did; I don't think I did.
Q. Didn't you swear that when you first saw that boat, she was ascending the river?
A. I don't remember what I said down there at all; but when she was coming towards us, she was ascending the river and coming across at the same time.
Q. Didn't you swear before the inspectors that she was ascending the river?
A. I don't think I did.
Q. If you did make that statement, did you tell the truth?
A. Yes, nothing but the truth; I never told that before the inspectors.
Q. Did you swear before the inspectors that she was coming almost square across the river?
A. I don't know whether or not I swore she was coming square across the river; I think I said quartering.
654 Q. If such had been the case, would you not have sworn that before the inspectors?
A. Yes.
Q. How long was it after you saw the Richmond before the collision took place?
A. I couldn't exactly tell that, but it was only a very short time; I didn't see the Richmond till after the second whistle blew; I thought then she was going to strike about the boilers some place.
Q. About how long after you saw her did she strike?
A. I wouldn't think it was over three minutes; I can't exactly say.
Q. Do you think it was over a quarter of a minute?
A. I do; yes.

Q. A minute?
A. I think it was.
Q. More than two minutes?
A. I don't know whether it was or not; as soon as I saw the Richmond I spoke to the pilot.
Q. What did you say to the pilot?
A. I think I asked him what in the name of sense that thing—I said "stop her, stop and back her," and he said, I have been backing hard some time.
Q. Did you notice how far your boat was from the shore at that time?
A. At the time of the collision?
Q. Yes.
A. I didn't.
Q. Was she a hundred yards from the shore?
655 A. I can't say, because I really don't know. I see both shore across the river.
Q. Have you forgotten how far she was from the shore, or did you ever know?
A. I never knew precisely.
Q. Did you ever have an approximate idea?
A. Not an exact idea.
Q. An approximate idea?
A. She was nearer to the left hand shore than the right; the left hand coming down.
Q. Did you make an estimate of the distance that the boats were apart?
A. No, sir; no particular estimate.
Q. Did you ever make an estimate?
A. Not that I know of, because I couldn't.
Q. Did you see the Richmond's bow when she struck the Sabine?
A. No, sir; I didn't.
Q. How do you know the exact position when she struck the Sabine?
A. I was standing looking at her. I seen where she was going to hit; she was then within jumping distance.
Q. You mean, then, to say you were about five feet from the Richmond when she struck the Sabine?
A. Yes; I think about five feet when I stepped back off the stage.
Q. Now, do I understand you to say positively that the Richmond was square across the river at that time?
656 A. Almost precisely square then at that time.
Q. Almost precisely square?
A. I think at that time she was squarer than when I thought she was going to strike our boilers. She wasn't exactly square then.
Q. How was she when you thought she was going to strike your boilers?
A. I could only see forward of her then. I could not see either side. That was pretty nearly square.
Q. Square across the river?
A. Yes.
Q. Whereabouts was your boat when she received that blow, below the point?
A. I don't know anything about the points.
Q. Which way was your boat heading at that time?
A. Square down stream; she looked square till she was struck; then both boats quartered down stream.
Q. Quartering down stream?

A. Yes, sir; as well as I could see.

Q. I understand you, the heads of both boats after the collision were quartering down stream?

A. Yes, sir; and I told the pilot to go ahead; that leaned the Sabine's head more to the shore than when the Richmond struck her.

Q. At what angle was she pointing towards the shore when the Richmond struck her?

A. I should think then she was nearly quartering towards the shore, down stream.

Q. Down stream?

657 A. Yes, sir; I can't say precisely, for on my little boat we had something else to think about.

Q. How far below the point was it where she struck her?

A. I can't say.

Q. Couldn't you see that point?

A. I couldn't notice any.

Q. Couldn't see any?

A. It wasn't noticeable to me; I noticed at daylight it wasn't a straight shore; but at that time I couldn't tell the difference.

Q. Do you know whether there is any eddy on that point?

A. Not that I know of; it looked to me as though it was all alike; whichever way the wind blows the current is.

Q. It didn't look to you as though there was no current there?

A. Just whichever way the wind blows the current is; I found that out in the yawl.

Q. Was there any wind that night?

A. Just a small breeze.

Q. What direction was it blowing?

A. I can't say, because it was blowing in every direction; I think it was blowing from the larboard shore; the left-hand shore going up.

Q. What became of the cotton that came off the Sabine; did it float down the river?

A. Some floated down.

Q. How far?

658 A. Till the wind blew it in shore.

Q. How far?

A. I seen some further down than I could see, I think.

Q. Did you get some cotton out of the river the next day?

A. Yes.

Q. Where?

A. Above where the boat sunk.

Q. How much?

A. About two hundred and forty-six bales.

Q. What time were you getting the cotton out?

A. From four o'clock in the morning till four in the evening.

Q. Was the cotton stationary at the time you got it out?

A. Some of it was.

Q. The portion of it which remained there where it was from about four o'clock in the morning till four o'clock in the evening?

A. The wind blowed it out on the shore, and it stuck in the mud there. Some of the cotton blowed the other way, up the river, when the wind shifted.

Q. Was there any of it that was not aground?

A. Yes; I got some that was not aground.

Q. Where was that?

A. I think it touched on the sandy bottom; the most I got was ten or fifteen feet out.

Q. How deep was the mud?

A. In some places ankle deep.

659 Q. Had you to go to your armpits for some of that cotton?

A. Yes, sir; for some four or five bales.

Q. Only four or five bales?

A. Only five, that deep; the mud right at the edge of the water was deeper than when you went out.

Q. Was there any more cotton there that you didn't get out?

A. Yes; I saw some that I did not get out.

Q. If there had been a current there, wouldn't it have washed that cotton away?

A. If there had been a current it would not have washed it away; it couldn't have washed any that day on account of the wind.

Q. If there had been any current, what would have kept it from washing away that night?

A. Nothing except the wind.

Q. Does a common little breeze keep cotton from floating down the river?

A. Yes, sir.

Q. When there is a current?

A. Yes.

Q. What do you call a common little breeze?

A. Just a nice breeze of wind, hard enough to make the water rough as had been that night, just a common breeze; after daylight it blew more.

Q. Didn't it blow off from the shore?

A. From the right-hand shore, going up?

Q. Yes.

A. No, sir; it blew hard on to it.

660 Q. Don't you know that the Richmond was blown off from that shore when she had her line out?

A. No, sir.

Q. And the Sabine too?

A. No, sir.

Q. Where were you when the Richmond had her line out?

A. I went ashore immediately after she got her line out and remained there nearly all day; I was on board awhile.

Q. What time of the day was that?

A. I can't say about what time of day; I didn't look at the clock.

Q. How long after the collision was it?

A. I can't say that we had been——

Q. Was it six o'clock?

A. I don't think it was.

Q. Five o'clock?

A. ——

Q. Four o'clock?

A. Yes; I reckon about five o'clock.

Q. What! Five, you say?

A. I can't say exactly.

Q. Before?

A. I don't know.

Q. How long did you remain out the boat after the collision?

A. A good while.

Q. What do you call a good while?

A. An hour or an hour and a half.
661 Q. What time did the collision take place?
A. I judge I had been on watch an hour and a half.
Q. Then you think the collision took place about two o'clock?
A. I can't say whether it took place at two or half past.
Q. What time was it that the boats floated off from the shore?
A. Probably eight o'clock in the morning.
Q. Were you on the Sabine then?
A. I was on the shore.
Q. Above or below the Sabine?
A. Above the shore; I can't tell you where on the shore, because I don't know myself.
Q. Above or below the boat?
A. Abreast.
Q. What were you doing?
A. Standing looking at the boat.
Q. Not getting out cotton then?
A. No, sir.
Q. How far were you standing from the line that was made fast to the shore?
A. The line was made fast in the willows. I don't know where it was made fast.
Q. You didn't see the line?
A. No, sir.
Q. What kept you from seeing it?
A. They said the line was made fast to a tree or stump. It pulled out and the line was in the water.
Q. Didn't they fasten that line a second time?
662 A. I didn't see them.
Q. Don't you know it was fastened a second time?
A. I didn't see it.
Q. You never swore you were getting out cotton this time?
A. I never did.
Q. Didn't you swear in the libel filed against the cargo of the Sabine, that you were continuously engaged, from four o'clock morning till four in the evening, getting out that cotton?
A. I don't know.
Q. Is that true or not?
A. I went at four o'clock and left the men there. I wasn't at work there every minute of the day.
Q. How long did you work getting that cotton out?
A. The most of the day.
Q. How much is the most of the day?
A. I thought I was. I came on shore once in the morning and staid there till the wrecking boat come to her.
Q. I understand you to say you don't know the mates of the Richmond?
A. I know the head mate when I see him.
Q. Do you know his name?
A. I heard the name since the boat sunk.
Q. Didn't you know it before?
A. No, sir.
663 Q. Where were you all the time that the Richmond was working at this boat trying to get her ashore?
A. I was on board our boat part of the time and part on the Richmond.

Q. How long were you on board of your boat?

A. A couple of hours, till they got a good deal of stuff off her. I was backwards and forwards from one boat to the other.

Q. Do you know what pulled up that line?

A. I do not.

Q. Did you see it tied to a—to some drift logs?

A. I didn't; I didn't see what it was tied to.

Q. Then you don't know what made that line give way or pull out?

A. I don't know what made it pull out.

Examined by Mr. COHEN for the Merchants' Mutual Insurance Company and intervening libellants:

Q. How much cotton had the Sabine on her before the collision?

A. I don't know, sir; I never counted the bales; the second clerk said there was sixteen hundred; there might have been a bale or so over.

Q. About that?

A. Yes, sir.

Q. How much cotton had the Sabine on her after the collision? In other words, how much cotton was displaced by the collision?

A. I have no idea in the world; it kept falling off her all——

664 Q. Small quantities or large quantities?

A. Well, it was a good deal.

Q. Do you know how much cotton the Sabine brought down to the city?

A. I was not on board of her that time.

Q. Do you know how much cotton was picked up of that which fell from the Sabine?

A. No, sir.

Q. Which boat struck the other; that is, which boat gave the blow and which received it?

A. The Richmond gave the blow; the Sabine received it.

Q. Was the blow given by the Richmond from towards the stern going up towards the bow; or was it in the direction from towards the bow going towards the stern, or a right straight blow, at what we may call right angles?

A. After I first seen the Richmond, I saw nothing but her bow till she run into us forward; I never seen her wheels, either one of them.

Q. In what direction did the boat travel?

A. She struck square. I thought first she was coming right to our boilers. We backed and she come square as near as I could come it.

Q. If the Richmond had stopped entirely at a certain point between the Sabine and the Richmond, would she not have avoided the collision by that stopping?

665 A. I know she would; if she had stopped when I first seen her I don't think the collision would have occurred.

Q. When you first saw the Richmond, were you not in a position where the Richmond could see you?

A. I think so; yes, sir.

A. About how far was the distance between the Richmond and the Sabine when you first saw the Richmond?

A. I can't say how far.

Q. Was it far enough for her to see you?

A. I think—I can't say whether she saw us or not.

Q. Some little while after that, when the Richmond got nearer to the Sabine, could she have stopped and thereby have avoided the collision?

A. I think so.

Q. Can you say, then, what distance off you the Richmond could have stopped or backed and avoided the collision?

A. No, sir; I cannot say.

Q. Do you know anything about the Richmond's capacity or power?

A. I never was on her in my life.

Q. You are not acquainted with her?

A. No, sir; I have not been on board of her half a dozen times.

Q. How would you describe her in reference to her power?

A. She's got big power, I am told; I never saw a pair of engines like hers on the river.

Q. How do you account for the collision?

666 A. I thought at the time that the Richmond had been coming up from the bend, on the other side, making her crossing, and started over next to where we was, and that the wind had struck her and she had run off with the pilot. She's in the habit of doing that.

Q. Had the Sabine given any signal or whistle to indicate to the approaching boat what the course of the Sabine was going to be before the collision?

A. Yes, sir.

Q. Did the Richmond respond to that signal?

A. I never heard her.

Q. If after you gave your signal the Richmond had responded properly, could the collision have been avoided?

A. I think so; if she didn't run away, it could have been prevented, I think.

Q. From her movements a little before the collision, did she appear manageable or unmanageable?

A. She didn't look like she was very manage'ble. It seems to me like she was going very rapid; but at that time of the night you couldn't tell.

Q. If the Richmond had not struck the Sabine, but continued on the course she was going when she struck her, where would the Richmond have ended?

A. If she kept on the bank would have stopped her?

Q. Do you know what stopped the blow of the Richmond from entering further into the Sabine than it actually did enter?

667 A. No, sir; I do not. I think the capstan and the little nigger engine under it prevented it. Then we had cotton forward.

Q. You stated that from the effect of the blow the stern of the Sabine swung round?

A. Yes, sir; the stern swung down stream.

Q. State whether that movement of the Sabine, giving a side movement, did not prevent the Richmond from entering further than she did?

A. I don't know; I think the capstan and the nigger engine underneath would have stopped her any how.

Q. Can you describe the capstan so that the court may know whether it is strong, large or small.

A. Well, it is not a large capstan.

Q. About what size—about as large as a man's body?

Q. Yes, as large as a man's body; just a common sized steamboat capstan.

Q. Has the capstan power enough to draw the boat ashore?

A. Yes, it has drawed her anywhere I've tried to draw her yet, since I've been on her.

Q. How is it strengthened?

A. It is strengthened in the hold by timbers and the spindle goes down to the bottom.

Q. Is the spindle entirely of iron?

A. The spindle, yes, entirely of iron.

Q. Can you take a sledge hammer and break that nigger engine all to pieces?

A. I think I could; I think I could break anything to pieces with a sledge.

668 Q. How big is that nigger engine?

A. It's what they put in common sized boats to work the capstan; I don't know the diameter of the cylinder.

Q. How much stroke has it?

A. I don't know.

Q. Has it a foot?

A. I don't know; I never asked the engineer.

Q. Is it as big as any nigger engine you ever saw?

A. No, sir.

Q. Was it a small engine or a large one?

A. It's a small sized one—not a very small nor a very large one; I have seen them a great deal larger and a great deal smaller.

Q. If the nigger engine was setting in the street, and one of those drays was coming along and hit it, wouldn't it break it?

A. No, sir; I don't think it would.

Q. Wouldn't a float break it?

A. It would depend on what part she struck.

Q. Do you swear, positively, that that steamboat, the Sabine, was backing at the time, the time the two steamboats came together?

A. I never swore that; I told the pilot to back her and she looked to me that she was backing very strong, or the Richmond was coming to the bank very fast, one or the other.

Q. I don't want your opinion; I want you to know?

A. Well, sir; I wasn't down there to see the engines turned back.

669 Examination-in-chief resumed:

Q. Now, you have been asked about that line fastened on the shore; what was there to fasten lines to?

A. Nothing but willows and drift logs, that's all I saw any how.

Q. Were those willows of large or small growth?

A. Very small.

Q. Small?

A. Very small.

Q. I want to know what length of time you were in going from the place you were when you heard the whistles of the Sabine the first time, to the place at which you first saw the Richmond?

A. I cannot say precisely, exactly. I was standing on the lower steps when the first signal was given and walked on the roof. It was only a short time.

Q. Then, I understand you that when you got on the roof you looked down the river and saw no boat?

A. I saw no boat.

Q. It was after you got there and looked out that you heard the second whistle of the Sabine?

A. Yes, sir.

Q. And then after that you observed the Richmond?

A. Yes; that was the first time.

Q. What's the character of the bow timbers of the Sabine; the timbers that were cut by the Richmond?

A. All oak.

Q. New timbers or old?

670 A. All bran new timbers.

Q. Is the boat extraordinary weak at the bow, or is there anything extraordinary about her?

A. I think she's extraordinary strong.

Q. Did you observe when the Richmond was coming into you how high her bows were out of the water?

A. No, sir; I thought it stood a very long distance or my eyes stood, one of the two.

Q. Now, whicl is the highest—the bow of the Richmond, the extreme upper part of the bow down to the stem; which is the highest, that part of the Richmond, or that part of the Sabine that the Richmond cut into?

A. I don't know, sir, which is the highest; I can't say.

Q. What are the thicknesses of the planks in the bow of the Sabine?

A. I don't know, sir; I never measured it; I know the thicknesses on the bottom, but not on the sides. The bottom is four inches thick; I never laid a rule on her sides, consequently I don't know how thick it is.

Q. What would you suppose the thickness is?

A. Three inches and a half; somewhere along there.

MARION C. LEVY, sworn by Commissioner Cohen, and examined for the Sabine:

Q. Were you on the Sabine at the time of the collision with the Richmond?

A. Yes, sir.

671 Q. In what capacity?

A. Third clerk.

Q. Were you in the pilot house at any time that night?

A. I was.

Q. Well, what was the time you were there?

A. At the time of the accident.

Q. How long had you been there?

A. It was a very short time; I can't tell the exact number of minutes.

Q. Well, sir, did you hear any whistles?

A. Yes, sir.

Q. What whistles were they? State.

A. Well, sir; before we saw the Richmond deep in the bend, we heard one whistle and we thought that was the cars running down the right hand shore, but after we got round the point, we spied this boat and the pilot remarked to me, that he thought that was the whistle from that boat. The pilot then blew his double signal—two whistles, and received no answer; in a very short time he blew his whistle again, and by that time the Richmond was heading across the river and was close to us. After a very short time we blew our signals a second time, and the mate hallooed to the pilot, if he was backing her; he said yes, he had been backing for some time then, and it was not but a short space of time till the Richmond struck us on the starboard bow, forward of the cotton a little.

Q. How did you happen to be up at that time?

672 A. I was doing my work, and coming into port I am always up; I was helping the second clerk to make out the manifest.

Q. Do you recollect what time of night it was?

A. As near as I can tell, it was between two and three o'clock.

Q. When you first saw the Richmond—where was she when you first saw her?

A. She was on the right hand shore.

Q. Which—going up?

A. The right hand coming down.

Q. How far was she from you; have you any idea of the distance?

A. Well, sir, I can't tell the distance on the water, but I should judge she was nearly a mile away.

Q. What lights did you see on the Richmond?

A. Two red lights.

Q. Were you able to form an opinion as to whether she was near the shore or near the bend?

A. I thought she was near the shore.

Q. How long before you saw the Richmond; do you think it was before the train of cars passed you?

A. Well, we were some half mile behind the point when we heard the whistle.

Q. Heard the whistle of what?

A. The one I took to be the car whistle.

Q. Mr. Levy, did you notice while standing in the pilot house which way your boat was heading when the Richmond was coming towards you?

A. Down stream.

Q. Did you look at the shore that was nearest you?

673 A. No, sir; I paid no special attention to it.

Q. After the Richmond struck your boat, did you notice how your boat was heading then?

A. Down stream. I noticed the shore then.

Q. Then how far were you from the shore when she struck you?

A. As near as I could estimate, about one hundred and fifty yards, to my judgment.

Q. Did you notice how the Richmond struck you?

A. She came with her head right on to us.

Q. When the Richmond came nearer to you, how many lights did you see?

A. Two red lights on the Richmond.

Q. Where were those lights?

A. One on the chimney, the other on the jackstaff, behind the pilot-house.

Q. Did you notice whether your signal lights were burning or not?

A. Our signal lights were burning very brightly.

Q. Did you hear any bells rung on the Richmond?

A. I did not, sir.

Q. Did you sit in the pilot-house till the collision?

A. Yes, sir; I staid there till she struck us.

Q. Have you any means of knowing whether your boat was going back at the time the collision occurred?

A. Well, yes, sir; I think we were going back at the time.

Q. Going back or backing the engines?

A. Going back.

Q. Is there any special reason for your thinking so?

674 A. I noticed the shore, and noticed that we were not going down.

Q. Had you any difficulty in making out the shore?

A. I could see it tolerably fair.

Q. Then after you first saw the Richmond, she changed her course, and run across the river to where you was?

A. After I first saw her, she appeared to me to change her course, and come right across the river.

Q. Was the signal you heard from the Richmond before or after the second blast of the whistle from the Sabine?

A. I heard one whistle from the Richmond after our second blast.

Q. From the pilot-house where you were standing, which way did you have to look to see the Richmond as she was coming towards you?

A. I looked to the right.

Q. From the starboard side?

A. Yes, sir.

Q. As she came, what part of the Richmond did you see; what part of the boat, forward or aft of the wheel-house?

A. At what time?

Q. When she was coming towards you.

A. We saw the front part of the boat.

Q. When you saw her coming towards you, did you have any idea what part of your boat she was pointing to?

675 A. Well, I was almost certain she was going to strike us about aft end of the boilers.

Q. As near as you could see, where did she strike?

A. As near as I could see, right forward the cotton?

Q. Did you notice how the head of the Richmond was pointing with respect to the shore?

A. It was pointing right for the shore, I thought, as near as I could tell.

Q. How fast was the Richmond going when she struck you?

A. She was running about ten or fifteen miles an hour.

Cross-examined by Mr. CAMPBEL for the Richmond:

Q. You said the Richmond's head was pointed for the shore before she struck you; you stated in your direct examination that you didn't notice the shore till after the collision occurred; now, how can you swear as to which way the Richmond's head was pointed towards, when you didn't notice the shore till after the collision occurred?

A. I should think her head was towards the shore when she was right across the river.

Q. How did you know the direction of the Richmond for the shore when you didn't see the shore?

A. Well, you might know that a boat leaving one bank and crossing right straight across the river, with her head, would be nearly pointing to the shore.

Q. Did you swear to the protest made by the steamer Sabine?

676 A. I did, sir.

Q. Made before Clark and Ivy, on the 13th of February, 1872?

A. I swore to the protest.

Q. Are the facts stated in that protest true?

A. I don't recollect all the facts.

Q. I ask you if they are true?

A. Well, I don't know, sir.

Q. The matter was fresher in your mind then?

A. It was more fresh then than now.

Q. Didn't you swear in that protest, that when in rounding Twelve Mile Point, the pilot of the Sabine discovered a boat ascending some three or four miles below on the right-hand shore?

A. Well, sir, I don't know exactly the distance she was from us.
Q. Didn't you swear to that?
A. Yes; I swore to it.
Q. Well, did you tell the truth at that time?
A. Well, as near as I knew.
Q. Now, how do you account for saying here that she was but a mile off when you first saw her; how do you account for that little variation of two or three miles?
A. Well, that was in regard to the whistles.
Q. Well, how far was the Richmond off from the Sabine when you first discovered her from the pilot-house?
A. I don't know; a good distance.
Q. A mile?
677 A. Yes.
Q. Two miles?
A. She might have been two or three miles.
Q. Then you don't know exactly how far?
A. I can't state.
Q. Then you think she was a mile off when you blew the first whistle?
A. I think she was.
Q Now, how far was she when you blew your second whistles?
A. I can't tell, sir.
Q. About how far off was she?
A. I didn't notice the distance at all.
Q. Well, about how far off; was she a quarter of a mile?
A. No, sir; I don't think she was that far.
Q. Two hundred yards?
A. To my knowledge, a hundred to a hundred and twenty yards when we blew our second whistles; may be not a hundred yards.
Q. Then, you saw the pilot ring his backing bell?
A. Yes, sir; after the second signals he rung his shifting and backing bells.
Q. And they were a hundred yards apart?
A. I am no judge of distance on water.
Q. And the Richmond was going ten or fifteen miles an hour?
A. Between ten and fifteen. I know she was going at a pretty good rate.
Q. Right straight across the river?
678 A. Right straight, as near as I could judge the river.
Q. Could you see distinctly the right bank—exactly how it lay?
A. I could see the outlines.
Q. Please tell me how long it would take your boat to ship her engines and get sternway up the river when she's going down the river at the rate of eight miles an hour?
A. Well, sir, it takes a very short time.
Q. How long?
A. I think a couple of minutes or so.
Q. About how long do you think it would take the Richmond to go a hundred yards, going at the rate of twelve miles an hour?
A. I don't exactly know that.
Q. Well, about how long?
A. I judge it would take her a couple of minutes or so; may be a little longer or a little less.
Q. Do you know how far a boat would run in one minute, going at the rate of twelve miles an hour?

(Witness gave no answer to the above question.)

Q. Twelve into sixty, how many times?

A. Five times.

Q. Then she would run a mile in five minutes?

A. Yes, sir.

Q. Then she would run a hundred yards in about one seventeenth of five minutes?

A. According to arithmethic, I guess it would be that way.

679 Q. Then she would run the distance that you speak of in a little less than one-third of a minute; now, will you please tell me whether the Sabine could ship up her engines and back up stream and gain sternway in one minute?

A. No, sir; I don't think she could.

Q. When you stood on the right side of the pilot-house looking at the Richmond, didn't the chimney hide her from your view?

A. No, sir.

Q. Whereabouts is the chimney of the Richmond situated?

A. In front of the pilot-house.

Q. Right in front?

A. A piece in front.

Q. Did you see the Richmond's skylights?

A. No, sir; I didn't notice whether I did or not.

Q. Did you see her cabin lights?

A. I didn't notice that in particular, either; I was looking at the bow of the boat.

Q. Was your attention particularly taken up with the Richmond?

A. I was noticing her coming across the river.

Q. Did you see her all the time?

A. I can't say I had my eyes on her all the time.

Q. Then you can't say what was her course all the time?

A. Well, I don't think she could change her course very much.

Q. What were you doing all the time?

680 A. I noticed the Richmond the whole time she was coming.

Q. Do you remember if you cast your eye around at all?

A. I can't say.

Q. Your attention was directed to her when you thought she was coming into your boilers?

A. Yes.

Q. You didn't look anywhere else, then?

A. No, sir; I just took a glance when I saw her to the left-hand shore.

Q. You then looked away to the left-hand shore?

A. Yes.

Q. Why did you do that?

A. Not for any particular object.

Q. What did you look at when you looked over to the left shore?

A. Not at anything particular.

Q. Were you scared?

A. No; not scared of any consequence.

Q. How long before the collision was it that you looked away from the Richmond?

A. I can't say; just a few seconds or so.

Q. Is that the only place you looked?

A. I can't say; I might have looked at several things, because it was just a glance or so; not for any particular object.

Q. You were cool enough, then, to be looking out at things about you?

681 A. I wasn't glancing around at any particular object; I might just cast my eye round.

Q. How did you know the course your boat was taking at the time?

A. We were heading down stream.

Q. How do you know that?

A. I don't think we turned round; if we turned round I would have noticed it.

Q. Were you noticing the bow of the boat?

A. Well, for some little time before the collision, I was noticing the bow of the boat.

Q. How long before the collision?

A. I don't know how long.

Q. Was it about the time you blew your first or second whistle?

A. About the time we blew our first whistle.

Q. You knew what her course was then?

A. I knew that we were running down stream then.

Q. How long have you been on the river?

A. I have been on the river but a very short time.

Q. What was your business before?

A. I was working in the agent's office, at Louisville.

Q. Is this your first steamboating, on the Sabine?

A. Yes, sir.

Q. When did she first come out?

A. The sixth of last December.

Q. That was your first steamboating?

A. Yes, sir.

Q. That was your first steamboating?

682 A. Yes.

Q. Mr. Levy, did you notice Harrison, who was at the wheel that night?

A. I didn't notice him particularly.

Q. Did you have any talk with him?

A. No, sir.

Q. Did you hear him talk or say anything?

A. Not a word till he spoke to the other pilot that was standing at the back of the house.

Q. Can you tell whether he was drunk or sober?

A. I have never seen him drunk. I have only known him a short time.

Q. Can you tell from a man's tone or remarks whether he is drunk or sober?

A. Well, I can most generally tell it.

Q. Well, are you prepared to say whether Mr. Harrison was drunk or sober at that time?

A. I would say Mr. Harrison was sober.

Q. Now, you have been asked the question about what was sworn to in this protest; did you read the protest?

A. Well, the protest was read to me.

Q. By the captain or by the notary?

A. Sir?

Q. By the notary?

A. Yes, sir.

Q. It was a good long document—a good long document, was it?

A. I don't know how long it was.

683 Redirect examination by Mr. EGAN:

Q. Who dictated it; did you see any one dictate it to the notary?

A. Well, I didn't notice that any one did.

Q. It was written before you came in?

A. No, sir; they were writing it when I came in.

Q. Who was?

A. The notary.

Q. Did you tell him anything?

A. No, sir.

Q. Did you dictate anything to him?

A. No, sir.

Q. Make any statement to him?

A. No, sir.

Q. Did you pay any particular attention to the contents of this document?

A. Well, the only time I paid any attention to it was when he read it off to us.

Q. Do you know whether he stated anything about distance in it?

A. I can't recollect whether he did or not.

Q. Was your attention particularly directed to the destruction of the boat?

(Objected to by Mr. Campbell, counsel for the Richmond, as leading, and witness answers:)

A. My attention was directed to the paper when it was read.

684 Examined by Commissioner COHEN for the Merchants' Mutual Insurance Company:

Q. You have several times used this expression in your testimony, "To my knowledge it was so and so." Do you mean by that, to your knowledge, or do you mean you knew it?

A. To my knowledge.

Q. Do you know how much cotton was on board the Sabine; how many bales before the collision?

A. Well, there was, I think it was, sixteen hundred and one bales, or near that.

Q. Do you know how many bales remained on board the Sabine after the collision?

A. No, sir; I don't.

Q. Do you know how many was brought down when she was brought down the other day?

A. There was none, except it was in the hold, and they might have taken a good deal out of the hold, for all I know.

Q. Do you know whether it was a small or a large quantity that fell off from the Sabine in consequence of the collision?

A. Well, I never noticed that at all.

Redirect by Mr. MARR:

Q. How many bales of cotton did the Sabine have on her the trip before this?

A. I can't tell you how many bales she had the trip before this last, because I had to go over from Monroe by railroad.

685 JAMES LEVY, sworn by commissioner and examined for the Sabine.

Q. Were you on the Sabine at the time the collision occurred?

A. I was, sir.

Q. Do you know anything about the collision?

A. Well, I know that there was a collision.
Q. Well, tell us what you know about it?
A. Well, I was in my room on Saturday night and I heard a whistle, one single whistle; I was not asleep, and immediately after the crash, I don't know what caused it, I run out forward and up on the hurricane deck, and I saw a steamboat lying dicigonally across ours, and when she swung or rather backed out, I saw it was the steamboat Richmond.
Q. Did you get up immediately?
A. Immediately.
Q. Did you dress yourself?
A. No, sir.
Q. How far did you have to go before you could see the boat?
A. About sixty or eighty feet.
Q. How far was your room from the steps leading to the hurricane deck?
A. I think there is six or seven rooms between my room and the forward part of the boat, and the steps are six or seven feet from the bulk-head, right at the chimney.
Q. Then you had to travel sixty or seventy feet?
A. Yes.
686 Q. Have you estimated the time between your hearing the whistle and the crash?
A. It appeared to me almost immediately, almost at once; the first I heard was a single whistle.
Q. Do you know the whistle of your boat?
A. No, sir; I don't.
Q. Did you hear the whistles of your boat that night?
Q. What was it that waked you?
A. I was awake when I heard the whistle; I had just roused up.
Q. Did you see Harrison that night after the collision?
A. Yes.
Q. How long after the collision?
A. I suppose one or two minutes.
Q. Mr. Levy, can you tell a drunken man from a sober man?
A. I think I can.
Q. Was he drunk or sober at the time?
A. He was sober to all appearance.
Q. You are the bar-keeper of the boat?
A. Yes, sir.
Q. Mr. Levy, did you take the trouble to look at the shore?
A. Yes, sir.
Q. Now, please tell us which way the shore was from the heads of the two boats, and how the boats were?
687 A. The shore on this side (the New Orleans side) of the river was on the left hand side—the Richmond was on the starboard side.
Q. Did you take any notice how far it was from the shore?
A. From one hundred and fifty to two hundred yards, may be.
Q. Did you notice which way the head of the Sabine was laying with respect to that shore?
A. Her head was turned quartering towards the shore—when I got out—and down stream.
Q. That was when the boats were still together?
A. Yes, sir.
Q. The Richmond hadn't backed out?
A. No, sir.

Q. What time did the boats swing together?
A. Immediately; just as she backed out; I don't know whether she was backing out or not; but I judged she was.
Q. Then the boats swung?
A. Yes, sir.
Q. Came together?
A. Yes, sir.
Q. With much swing?
A. Yes, right smart; as much as the first strike.

By Mr. EGAN, for the Sabine:

Q. Which boat's whistle did you hear when you were in bed?
A. I can't tell; it was one single whistle; and just waking up, I couldn't tell which boat's whistle.
688 Q. When you got up, which way was the Richmond laying?
A. Nearly at right angles across the Sabine's bow.
Q. Did you see her back out from the cut she made in the Sabine's bow?
A. Yes; I saw her when she backed out, I suppose.

By Mr. CAMPBELL, for the Richmond:

Q. You saw her head in the Sabine?
A. Yes, sir.

Direct examination resumed by Mr. EGAN:

Q. How far was she into your boat, into the Sabine?
A. Well, I suppose, twelve or fifteen feet, to guess at it; I was studying about getting off from her; the way I come to look at the shore was studying how to get off from the Sabine.

Cross-examined by Mr. CAMPBELL, for the Richmond:

Q. Whereabouts were you standing when you saw the Richmond back out?
A. On the hurricane roof right forward the starboard chimney; hold of a guy.

By Mr. EGAN:

Q. How far were the guards of the Sabine from the water?
A. While we were coaling at Baton Rouge my attention was called to it, and I judge about four or five inches clear of the water.
689 Q. Who called your attention to it?
A. The second clerk of the boat spoke to me of how much cotton we had on, and how clear we were of the water.
Q. Would the boat have carried more?
A. I think, about two hundred bales.
Q. How long have you been steamboating?
A. My first steamboating I commenced in '43. For eight years I haven't steamboated more'n eighteen months. I've been following the steamboat painting; that's my business.

By Mr. CAMPBELL:

Q. Why were your attentions called to the guards at Baton Rouge?
A. I don't know; the second clerk called me, and said, "Mr. Levy, come see, we are not loaded yet."
Q. Can you imagine any reason why the second clerk should call you out to show you about the guards?
A. I can't.

THOMAS J. HENRY, sworn for the Sabine, March 8th, 1872.

Examined by Mr. EAGAN:

Q. Mr. Henry, were you employed on the steamboat Sabine, in February last?

A. Yes, sir.

Q. Were you on her at the time of the collision with the steamboat Richmond?

A. Yes.

690 Q. What capacity were you employed in?

A. I was head engineer; or first engineer, I call it.

Q. What sort of a boat is she?

A. She is a stern wheel boat, about 165 feet long. I never measured her, and never heard anybody say.

Q. Will you state now, in your own words, in a connected form, what occurred on the night of the collision?

A. Well, we was coming down the river; I was on watch at twelve o'clock; nothing happened until between two and three.

Q. What night?

A. Saturday night.

Q. What date?

A. Saturday was the tenth, I believe.

Q. What month?

A. February.

Q. Go on.

A. I heard a whistle blow, and then the slow bell rung. I slowed down and put on full stroke rods; took the cut off rods off, and by the time I got that done, the pilot blowed the whistle again; by that time they rung the stopping bell; I shipped up and backed her, and was backing about two minutes. I heard a crash, and the fireman came running through the gangway, and told me we were mashed to pieces. By that time the water was getting into the engine room, and we started upstairs.

691 By Mr. CAMPBELL, for the Richmond:

Q. The water was coming into the engine-room?

A. Yes. I went upstairs, and saw that the Richmond was there, and we were sinking.

Q. What arrangements had the steamboat Sabine for stopping?

A. The same as other boats; the throttle valve shut her down and raised levers.

Q. What was the first signal you heard from the Sabine?

A. Two whistles.

Q. What was done after that?

A. Rung the slow bell.

Q. How long after this signal was given before the slow bell was rung?

A. I can't tell exactly; it was not very long.

Q. About how long?

A. I can't tell that, for I hardly ever take any notice of that in the night; we have pilots on watch to see to that.

Q. What did you do when the slow bell was rung?

A. I shut her down and put full stroke rods on.

Q. What was the effect of that?

A. Why, to work the engine's full stroke, in case you wanted to back her.

Q. How much did it decrease?
A. It shut her down to the one-sixteenth of an inch.
Q. What was cut down to the one-sixteenth of an inch?
A. The steam.
692 Q. What was it, ordinarily?
A. About two and one-half to three inches, when the valve is open.
Q. How long did you continue under that slow bell?
A. That is a question I cannot answer.
Q. About how long?
A. A couple or three minutes, as near as I could tell; we never notice any time; we have other things to do.
Q. Did you hear any signal to those two whistles, in reply?
A. No, sir.
Q. What was the next signal you heard from the Sabine?
A. Two whistles again, sir.
Q. What was then done?
A. They rung the stopping bell.
Q. Who do you mean by them?
A. The pilots.
Q. What did you do?
A. When they rung the stopping bell?
Q. Yes.
A. I stopped the engines.
Q. How long did it take you to stop from the time you heard the stopping bell until you heard the backing bell?
A. Not quite half a minute.
Q. How long was it after the second two whistles from the Sabine before the signal was given to you to stop?
693 A. I don't think he had much more than let go the whistle line before he catched hold of the bell line; I just heard the last of the whistle when the bell rung to stop her.
Q. How had you been backing?
A. Very strong; I always do it unless they ring the slow bell.
Q. Could she have backed stronger?
A. No, sir; I had everything she had in her.
Q. How long had you been backing before the collision?
A. About two minutes, as near as I could tell; I can't tell exactly, but I suppose about two minutes.
Q. Did the Sabine have sternway at the time of the collision?
A. That is something I can't say, sir.
Q. How long would it take her to get sternway after being stopped?
A. A very little bit to get sternway.
Q. Wouldn't it have taken the length of time that you were backing?
A. That's owing to the kind of river she is in.
Q. With the current on the Mississippi River at the time of the accident, would it have taken any longer?
A. I don't think it would have taken any longer.
Q. What sternway would she have had then?
A. I don't know, sir; I am not pilot; my business is inside and not outside.
Q. What is the character of the boat's engine?
694 A. Tiptop; poppet-valve engines
Q. What do you mean by poppet-valve engines?

A. There is a slide valve that works on a slide and the poppet is raised up with a lever.

Q. Which is the best engine?

A. The poppet-valve engine.

Q. Is that the newest or the oldest style?

A. It is the newest.

Q. What arrangements had this boat for stopping and backing?

A. She had a shifting rigging with a forked hook fastened on the end of the camrods; the full stroke rod, and you have a lever that raises it up.

Q. Will that lever stop both engines?

A. Yes, sir.

Q. At the same time?

A. Yes, sir.

Q. Are your engines coupled?

A. Yes; they are coupled with one shaft.

Q. How many engineers did you have on watch at one time?

A. One, sir.

Q. Is that the usual number on stern-wheel boats?

A. Yes, sir; where there is shifting rigging, that is the usual number; on the other boats, where they haven't got it, they carry a "striker" or "greaser."

Q. Then the engines on a stern-wheel boat are usually connected?

A. Yes, unless they have a double wheel.

Q. Is your boat a single wheel?

695 A. Yes, sir.

Q. The engines on your boat were coupled?

A. Yes.

Q. How long have you been an engineer?

A. I have had my license nine years, sir.

Q. Have you been running boats all that time?

A. Yes, sir; all but two years. I was ashore off and on. I was ashore once a year and a half at one time.

Q. When was that?

A. In '64.

Q. Have you since '64 been constantly employed as an engineer?

A. Yes, sir.

Q. How many bells does a boat have in the engine room?

A. There is two bells and a gong on a stern-wheel boat.

Q. How many on a side wheel boat?

A. Two go-ahead bells, two backing bells, and one gong.

Q. Where are those bells situated on a side-wheel boat?

A. Right over the engine; the alarm bell hangs out a little from the head engineer's side, underneath the boiler-deck.

Q. What do you mean by an alarm bell?

A. It is to alarm the engineer. Some boats have whistles or gongs.

Q. Where is the stopping bell?

696 A. Forward the end of the cylinder.

Q. The cylinder?

A. Yes, sir.

Q. Just over the engineer's head?

A. Just a little in front of him.

Q. Is that the largest bell?

A. Yes, sir.

Q. What is the effect of ringing that?

A. To stop her.

Q. How many bells?
A. One.
Q. What other signal is conveyed by that bell?
A. That is all; the stop and go-ahead bell.
Q. How many bells does it require to be of the signal to go ahead?
A. One.
Q. Where is the after bell situated?
A. At the after end of the cylinder; that is the backing bell.
Q. Is it as large as the stopping bell?
A. No, sir; about half.
Q. How many bells of that does it require as a signal to stop?
A. None; we don't use it as a stopping bell.
Q. To back?
A. One.
Q. Is that all that it is used for?
A. No, sir.
Q. What else?
A. A slow bell.
697 Q. What is the number of bells for a slow bell?
A. One.
Q. What is the difference between a backing bell and a slow bell?
A. Where it is to back her, they pull the bell once to back; and, if to back slow, they pull it again; that means to back slow.
Q. What is the gong used for?
A. For an alarm bell for working strong; half heads for three different things.
Q. For three different things? Name each one of them.
A. An alarm bell.
Q. What is the alarm bell for?
A. To alarm the engineers that the boat is going to land.
Q. How many bells for that?
A. Three.
Q. That's one object.
A. When running along, they hit it one tap; that is to work her half head.
Q. What do you mean by half head?
A. To shut her down to about half a turn of the throttle-valve wheel.
Q. Explain that.
A. That opens the throttle valve half an inch; that is owing to what kind of a thread you have on the throttle valve.
Q. What is its effect?
698 A. It shuts her engine down to very near a slow bell.
Q. The third one?
A. In running along under a head of steam they ring the alarm bell twice; that is to whip it into her for all she is worth, for she is in a tight place.
Q. How much does it increase her velocity?
A. Well, it is owing to who is engineer on the boat. Some engineers work one way, some another. When they ring a strong bell, I slip her up full stroke; that increases her velocity about twice what it was, because she raises her valve the full length of the slide.
Q. Then, if I understand you aright, two taps of the gong is to let on all the steam that she can carry?
A. Yes, sir; all that we have got.
Q. How far does the piston rod work in the cylinder?
A. It works a full stroke all the time; that don't cut off the steam,

it's the valves that cuts it off—the cut-off cams that cut it off. We work five-eighth cams on that boat; the valves stay open till the engines get to the center.

Q. Does the piston rod work further when all the steam is on than when it is not let on?

A. Yes, it is just the same.

Q. Then how do you explain that it works faster?

A. Because you work more steam.

Q. Does that work the piston rod faster or with greater force?

A. With greater force.

699 Q. What would you understand by two taps of the gong without any previous signal?

A. I would understand it to blaze it to her for all that she's got.

Q. Let on all the steam she has got?

A. Yes.

Q. In what direction would you understand this steam to be put on?

A. It would be to go back, if she was running backward; it is owing to the way she was running.

Q. Did you hear any reply to the signals from the Sabine?

A. No, sir; none at all.

By Mr. VOORHEES, for the intervenors:

Q. You said that on two different times the Sabine gave two whistles?

A. Yes, sir.

Q. The last two whistles given by the Sabine, how long was that before the collision took place?

A. Little over two minutes, I guess.

Q. What interval was there between the two last and the first two whistles of the Sabine?

A. I can't tell exactly.

Q. About?

A. I am on my oath now. I don't know; that is something that a man never pulls his watch out to look for.

Q. What was the object of the first two whistles?

700 A. To pass on the left-hand side, on the starboard side; they blow one for the left and two for the right.

Q. That was the object?

A. Yes.

Q. Were there any whistles given by the Sabine previous to these two?

A. None that I know of, sir.

Q. None that you know of?

A. None, sir.

Cross-examined by Mr. CAMPBELL, for the Richmond:

Q. Was there anybody else with you in the engine room that night?

A. About the time the accident happened?

Q. Yes.

A. No, sir; not till it happened; then they came in.

Q. After the accident happened, what did you do?

A. I went upstairs to get out of the road, if I could; I didn't like to take water.

Q. How long after the accident happened was it before you went upstairs?

A. A short time.

Q. What do you call a short time?

A. Two or three minutes.

Q. Were there any other bells rung in the engine room besides those you spoke about?

A. No, sir.

Q. Did you continue to back her until the water stopped you?

A. No, sir; they rung the bell to ship her up and go ahead.

701 Q. How many revolutions did you go ahead?

A. I don't know; she kept going ahead when I went on the roof, and left her going ahead.

Q. Were there two engines there?

A. Yes, sir.

Q. And one engineer to manage two engines?

A. Yes, sir.

Q. Did you give your evidence in this case before the inspectors?

A. I did, sir.

Q. Here in New Orleans?

A. Yes, sir.

Q. Do you know anything about what happened outside the engine-room?

A. No, sir, I don't; only what I heard; I heard the whistles.

Q. Do you know anything about the machinery of the Richmond?

A. No, sir, I don't; I only know it is low pressure; that is all I know about it. I never run on the Richmond, only to come from the wreck down here; and then I was in the engine-room only once.

Q. Do you know how her engines are managed or handled?

A. No, sir; I don't.

Q. How far could the Sabine go in two minutes?

A. Which way?

Q. Going ahead.

A. I don't know how far she would go ahead; that is some-
702 thing that an engineer knows nothing about. We have always something else to do, and have our hands full, and let somebody else watch the speed of the boat.

Q. How many revolutions would the Sabine make under a slow bell in a minute?

A. She would make about ten or fourteen.

Q. At what rate was she going down the river at that time, on that trip?

A. I don't know, sir.

Q. Going slow or fast?

A. Before this accident happened she was going under a full head of steam; one hundred and twenty pounds of steam.

Q. About how far would that carry you in an hour; how many miles?

A. I don't know, sir.

Q. How many revolutions does she make when she isn't going under a slow bell?

A. She averages about twenty-two.

Q. To the minute?

A. Yes; with a full bucket.

Examination in chief resumed by Mr. EGAN:

Q. You said just now that the Sabine was running under a full head of steam, just previous to the collision; was there any slow bells before that?

A. Not before they blew any signals.

Q. When did you have reference to her running under a full head of steam?

A. Before any signals were blown at all.

703 Q. After that she didn't go under a full head of steam?

A. No, sir.

B. I want to know whether it is customary for a vessel like the Sabine to have two or one engineer on watch at a time?

A. One, sir.

Q. Could you manage the engines with more facility than under the old system with two?

A. Yes, sir; one man could get along better; the other would be in the road.

Q. Can you do it quicker yourself?

A. Yes, sir.

Q. How many revolutions of the wheel does the Sabine make under a full head of steam?

A. Twenty-two or twenty three.

Q. How many revolutions would she make in backing hard?

A. That's something I never timed her on.

Q. About?

A. Ten or fourteen; somewhere along there.

Q. What is the diameter of her wheel?

A. About fifteen feet, I believe.

Q. What is its breadth?

A. Twenty-one or twenty-two feet in length of bucket.

Q. Depth?

A. Sixteen inches.

704 By Mr. MARR:

Q. Isn't the Sabine so arranged that one engineer manages the throttle valve of both engines?

A. The engines are coupled with one throttle valve branched in at each end.

Q. The engineer stands between them?

A. Yes.

Q. What length of time is required, when you are going ahead on the Sabine, to back?

A. We just throw the throttle valve down, raise the lever, and ship her up.

Q. What motions would you have to make to stop her and back her when she is going ahead?

A. Just run the throttle valve down, raise the levers, put on a full stroke rod, and she's ready to back.

Q. Where were you standing at the time the signals were given by the Sabine?

A. Within three feet of the throttle valve.

Q. Where did you continue to stand?

A. I stood there.

Q. After the collision, you started the engines ahead?

A. Yes, sir.

Q. What made you leave the engine-room?

A. The water.

Q. You didn't leave the engine-room until the water forced you to go?

A. I didn't wait for it to drive me.

Q. Did you leave your engines going ahead?

705 A. Yes, sir.

Q. The engines on the Sabine were on the main deck?

A. Yes, sir.

Q. If there is water in the engine room the boat is under water?
A. Yes, sir; when it is in the engine room we call it under water.
Q. How long did she go ahead after you left the engine room?
A. She didn't escape any after I got on the roof, and I went right up.
Q. Then she sunk so that the engines stopped?
A. Yes; the water stopped the engines.

THOS. J. HENRY.

Sworn to and subscribed before me this 11th day of March, A. D. 1872.

J. A. CHARBONNET,
D'y Clk U. S. Dist. Court, Dist. of La.

RICHARD F. FULLER, sworn by Commissioner Cohen and examined for the Sabine:

Q. Captain, you are one of the libellants in this case?
A. Yes, sir.
Q. You were on the steamboat Sabine at the time of the collision?
A. Yes, sir; asleep in my room.
Q. In what capacity?
A. Clerk of the boast—first clerk.
706 Q. When did she leave Camden?
A. On the evening of the 4th or 5th, about four o'clock.
Q. What kind of a load had she on then?
A. At Camden? Six or seven hundred bales.
Q. And on the way down how many did you get?
A. Well, the cotton that we had on board when we came out of the river was fifteen hundred and seventy-one bales.
Q. What else did you have on board?
A. A few hides, thirty or thirty-one bags of cotton in the seed and a barrel of beeswax.
Q. How many passengers?
A. About fifteen or sixteen.
Q. Were they cabin?
A. Yes, sir; cabin passengers.
Q. What was the freight on this cotton?
A. What amount?
Q. The freight on a bale?
A. The Camden cotton was two dollars; on the cotton out of the river, little boats were getting three and a half—from three and a half down to a dollar and a quarter—very little at a dollar and a quarter a bale.
Q. And the passengers were how much?
A. We got fifteen for passengers from Camden; some at ten dollars and one passenger at eight dollars. The passenger receipts were small—only two hundred and ninety dollars.
Q. How many bales of cotton will your boat carry?
707 A. Well, we never had the boat loaded. She has capacity for eighteen hundred bales. We never had her loaded, since I've been on her, to her capacity.
Q. How far did her guards stand out of the water, on this trip?
A. Well, the guards forward, where the Richmond struck her, were two feet out of the water. The lowest place, midships, was two feet; forward, two feet, and astern, two feet. The boat has a sheer of three feet.
Q. When did the collision with the Richmond occur?
A. Well, it occurred on Sunday morning, the 11th of February, when I was asleep.

Q. At what time?

A. I didn't look at any watch; think it was between two and three o'clock on Sunday morning.

Q. Where were you at the time of the collision?

A. In my room; my room is in the ladies' cabin.

Q. Now, state all you know in regard to it.

A. The first thing I heard, I was laying down with my boots on, as I was expecting to go home when we arrived in port; I heard a heavy crash, and by the time I could get my face out of the window another heavy crash, broad on the side. Then I immediately ran out forward and saw the engineer; he said we were sunk. I run out forward and saw the boat was sinking, and I saw another boat. I hallooed
708 to the boat and said, you had better come and take our passengers off. The boat was laying, as near as I could judge, up and down the river.

By Mr. COHEN, for the Merchants' Mutual Insurance Company:

Q. The boat was laying up and down the river?

A. Yes, sir; the Sabine was; her stern was a little quartering.

Q. How far was she from the shore?

A. I don't know how far she was from the shore; she was closer to this shore.

Q. Which shore?

A. Well, she was closer to the left-hand shore coming down—the larboard shore. The boat's stern was aground; the Richmond came alongside and tried to get a plank out, and we finally told them to get a line out; we had no chance to get a line out; Captain Green made his mate get a line out, and made fast to the Richmond; we wanted him to make it fast to the Sabine, and he declined to do it; he ordered soundings to be taken; they hove the lead and reported twenty-one feet off the bow of the Richmond; the line was then out; and they commenced heaving out the capstan of the Richmond, and pulled the bow round towards the shore to get the Sabine as much into shore as they could; the line finally parted; by that time the stern of the Sabine was pulled from the shore, and they all floated down the stream together. In the morning when the Sabine was still and sunk, she was about three hundred yards
709 from the shore; it was a mile and a half below the point, right opposite Cammack's store, on the opposite side, where she settled down.

Q. Did you hear any whistles blow?

A. No; I didn't hear any whistles. I was asleep and didn't hear anything about whistles or bells. I can't say anything about it.

Q. What kind of a crew was on board of your boat?

A. We had about twenty-seven men, I think—roustabouts—two deckhands and two firemen; a full complement for a crew; night and day watchmen; there was nothing wrong; there was a full crew.

Q. What was the size of the boat?

A. A hundred and fifty feet long, thirty-six feet beam, two-feet guards on each side, forty feet over all.

Q. Do you know anything of anybody saying or doing anything to induce Captain Green to make the Sabine fast after she first grounded?

A. Yes, we tried to get him to make fast, and he said he knew his business; his boat was about three miles long and he knew what he was doing. I told him there was plenty of water, to shove his boat into shore.

Q. How far did the two boats drift down the river before the Sabine grounded finally?

A. I don't know exactly where the Sabine laid; but from where the first cotton went ashore, I think it was a mile or a mile and a half.

Q. How far was it from the willows?

A. It was forty yards from the willows to the edge of the water.

710 Q. Below or abreast the willows; where was the cotton that floated off?

A. All along the willows.

Q. I am speaking of the cotton that was highest up from you?

A. Well, the water didn't come up to the willows within thirty or forty yards.

Q. Did the Richmond work her engines while lying alongside the Sabine?

A. Yes; she went ahead on the starboard and back on the larboard wheel, and that caused the Sabine to swing out.

Q. And then you commenced drifting?

A. Yes; and drifted down to where she finally settled down; it was about three hundred yards from the shore; I know it was three hundred yards.

Q. On the last trip, or at least the trip before this, how many bales of cotton did she have on board?

A. I think she had very nearly sixteen hundred bales. I can tell by looking at my books.

Q. Had she a larger load on that trip than on this trip?

A. Yes; the cotton was stowed better in the hold; there was none on the roof. Nobody could put cotton on the Sabine to load her down; no man could put cotton enough on her to load her down to the guards; that is, Ouachita cotton.

Q. Who was Capt. Green that you have spoken of?

A. That's the captain of the Richmond; Captain Nat. Green.

711 Q. Will you describe the cut the Richmond gave you?

A. The cut seems to be kind of glancing like, from the cotton; from where the cotton was piled up; to where it first commenced cutting through the Sabine. The cotton caused the boat's bow to glance.

Q. It went in about how far?

A. About seventeen feet; it was stopped by the capstan; it cut through the timbers about seven feet, up and down.

Q. How wide is the cut?

A. The cut from the first break to the last break, outside, is six or seven feet.

Q. What's the shape of it?

A. About the shape of a steamboat's bow; about the shape of the Richmond's bow.

Q. When was the Sabine built?

A. The Sabine was built last year, and was launched, I think, on the 5th day of December.

Q. What year?

A. 1871.

Q. Where?

A. At Jefferson, Indiana.

Q. How many voyages did she make in the Ouachita trade?

A. This would have been the third trip in the Ouachita.

Q. What was the character of the boat?

A. Our contract was——

Q. Never mind the contract.

712 A. The character was to fill Red River requirements to the letter; full four-inch plank on her bottom, tapering up to three and a half on her sides, and large timbers.

Q. Three and a half top plank?

A. Yes, sir; and very fine material; the best I ever saw; planed on both sides and free from every kind of knots; she was built of very elegant timber; free from knots—elegant timber.

Q. Were you interested in her building?

A. Yes, sir; I was there almost every day, while she was building; saw the plank put in; she was the strongest stern-wheel boat I ever saw.

Q. What was the character of her bow?

A. She had three very heavy breast-hooks in her stem; she had the strongest stem I ever saw in my life.

Q. Did it blow violent or otherwise?

A. When I went out, there was no wind of any consequence; but the wind raised in about two hours afterwards.

Q. The blow, was it violent, the blow from the Richmond?

A. A very hard blow; it looked as if everything was crushed; I felt it when I was in bed.

Q. Did you hear the noise of the boat?

A. Oh, yes; it was a very heavy crash; it caused me to jump right out of bed.

Q. Was there large timber in the bow?

A. Very heavy timber, and a great deal of it.

713 Q. What was it of?

A. To make her stout and staunch, to fill the bill that we ordered, they had to put in the best oak.

Q. Can you see any indications of the furthest extent that the Richmond's bow penetrated the Sabine?

A. Yes, up to the capstan.

Q. Forwards or aftwards?

A. Straight in; it looked like as if the capstan was knocked down.

Q. Do you know what stopped the Richmond?

A. I should suppose the capstan or the nigger engines.

Q. From your knowledge, what did it?

A. I think the capstan saved her, or she would have gone through—cut her right off.

Q. Describe the capstan.

A. It is the strongest thing about the bow. We do all our pulling over bars with it. It has an iron spindle and cogs.

Q. What's the size of this iron spindle?

A. It's about six inches in diameter.

By Mr. CAMPBELL, for the Richmond:

Q. An iron spindle?

A. Yes, sir.

Q. Cast or wrought?

A. I don't know, sir; the capstan is about as big as your body.

Q. Were you present when these photographs were taken?

714 A. Yes, sir.

Q. Will you identify them?

Witness was here shown three photographs of the Sabine, and answers:

No. 1 was taken nearly forward the guards, from the view of it.

No. 2 was taken directly in front, to show the pilot-house and the front view of the boat entirely.

No. 3 was taken as near sideways, to show the cut, as she lay up and down the river.

Q. Where was the boat at the time the photographs were taken?

A. Foot of Thalia street.

Q. How long ago?

A. Saturday last—Saturday, the 24th day of February.

Q. What was the name of the timber upon which the Richmond's bow left its last impression, as she penetrated in the hold?

A. The kelson.

Q. She's now kept afloat by what?

A. By the oulkhead forward.

Q. Did I understand you to say that that blow appeared to be given—did it come from aft forward, or from forward aft?

A. Well, it appeared to me that the Richmond must have struck her head on the cotton and glanced.

Q. Then the blow must have come from aft quartering forward?

715 A. No; the cotton kept her from coming in where she struck; that's my supposition.

Q. How does the cut appear there (in one of the photographs)—as a break from aft forward, or from forward aft?

A. It appears to be a straight cut, only glancing like. The appearance of the cut is right from the side where she struck the cotton.

Q. Do you know that?

A. I don't know that the Richmond struck the boat at all. It appears to me she struck a square lick right head on from the starboard.

Q. When you ran out on the hurricane roof?

A. I didn't run out on the hurricane roof.

Q. Where did you go, then?

A. Right on the forecastle.

Q. And you then hailed Captain Green, the captain of the Richmond, did you?

A. Yes.

Q. How far off was the Richmond at that time?

A. About fifty yards, or a hundred yards.

Q. What do you think it was, fifty yards or a hundred yards?

A. Well, it was at night, and I can't tell; I should think it was fifty or a hundred yards.

Q. You have been steamboating a long time; I would think you could form an estimate.

A. Well, I should say seventy-five yards.

Q. Did you see the Richmond's cabin lights or skylight lights?

716 A. Yes; I could see the Richmond right head on to us.

Q. That was when you went out forward?

A. Yes, sir.

Q. When you looked out of your window, she was lying alongside of you?

A. Yes, she was the Richmond.

Q. You spoke of your boat being built for Red River; I thought she was built for Sabine River?

A. I said for full Red River requirements.

Q. Wasn't she built for the Sabine River?

A. Yes, at the start; our contract was for full Red River requirements.

Q. Did the wind blow the Richmond out from the shore that morning when she had her line out?

A. I don't know.

Q. Was the wind blowing?

A. Yes; but the wind didn't blow what I call a very hard wind.

Q. Was the wind blowing at the time that the Richmond was made fast to the shore?

A. No, sir; there might have been a breeze, but not a hard wind or storm.

Q. Was there any wind?

A. It was what I call a calm night when I came out; the wind did rise about two hours afterwards.

Q. Which way did the wind blow then?

A. From the right-hand shore, looking down the river, a little
717 quartering; the cotton would blow off as far as the bow and the wind would take it into the shore.

Q. Did the cotton of the Sabine stop above or below the Sabine?

A. Above and below and up to the Twelve Mile Point.

Q. Do you know whether the mate got any of it out of the river?

A. Yes, sir.

Q. Was that blown ashore?

A. I don't know; it was all in the water, along shore, just as the drift would be there.

Q. Did the lines part when the Richmond blew away from the shore?

A. Bob Courts said whatever the line was made fast to pulled out; they had a very heavy strain on the line.

Q. I understood you to say in your direct examination that the line parted?

A. I said the line gave way; they said the willows or stump, whatever it was tied to, pulled up.

Q. Whereabouts did you meet the engineer that you spoke of?

A. Coming up the forward steps.

Q. Did you swear to the protest before Clark and Ivy?

A. Yes, I think I did—I signed the protest.

Q. Did you know what you were swearing to at that time?

A. Yes, of course I knew what.

718 Q. Was it read to you?

A. Yes, sir.

Q. Read to all the men?

A. Yes, sir.

Q. Did he ask any questions?

A. I think the captain said something to them about it.

Q. Were they up there when it was written?

A. No, sir; it was read to them as they came in.

Q. Did you give your testimony before the inspectors?

A. Yes, sir.

Q. In this case?

A. No, sir; the inspectors were trying the pilots.

Q. What day was it?

A. I don't recollect.

Captain EMILE GROSS sworn by Commissioner COHEN, and examined for the Sabine by Mr. EGAN:

Q. Captain, what is your business?

A. Captain of steamboats, and steamboat pilot.

Q. How long have you been engaged in that business?

A. About thirty-seven or thirty-eight years.

Q. In what trades have you run?

A. Well, in different trades; in the lower trade, in the St. Louis trade, Red River trade, Lafourche trade—different trades.

Q. Between what points?

719 A. My principal trade has been between New Orleans and Bayou Sara.

Q. How long have you held a license as a pilot?

A. I have held it all the time.

Q. Thirty-seven years?

A. I cannot tell exactly; I have held a license ever since licenses were first given.

Q. How long ago were they given?

A. I cannot tell exactly; I do not remember.

Q. About?

A. Indeed I cannot tell.

Q. Which is the easiest to manage, a descending boat or an ascending boat, in steering?

A. The ascending.

Q. Give your reasons for it.

A. Because the boat going up has the current against her, and the one coming down has the current with her.

Q. What is the proper watch on a boat at night under way?

A. They differ sometimes. The captain stands watch until one o'clock, and the mate stands the balance. Others, again, change every four hours through the night and six hours in the day-time.

Q. I ask you what is the proper watch; how many men, and their stations?

A. Well, the captain, the pilot, the engineer, and hands enough to work the boat in one watch; the second has the mate, a pilot, a

720 second engineer, and hands enough to work the boat. The captain is stationed on deck.

Q. What part of the deck?

A. Well, sometimes on the hurricane roof, down below, and different parts of the boat. They are not stationed at one point particularly. The pilot is stationed at the wheel, and the hands generally on the forecastle. When the mate's watch is on deck, it is the same; he is stationed on the roof, and sometimes comes off to different parts of the boat.

Q. Is it or not at night, with a boat under way, usual to have a watch forward in some place?

A. Yes.

Q. Who is that man; where does he stand?

A. The captain is that man; sometimes the mate.

Q. Where does he stand?

A. Sometimes on the roof, sometimes below, in different parts of the boat; I cannot specify any one point.

Q. When he is stationed—what is his duty?

A. To watch out and see that everything is right.

Q. Forward or aft, or where does he look?

A. That depends on what the boat is doing. If the boat is going straight along, and nothing happening, sometimes he is below on the deck; but in case of making a landing or of meeting a boat he should be forward on the roof.

Q. What part of the boat?

A. On the roof, the hurricane deck.

21 Q. When has he to go forward; what makes it necessary for him t[illegible]o forward—any signal given?

A. Yes; l[illegible] rights he ought not to wait for any signal. At the same time tha[illegible]e hears the signal from a boat he must be there.

Q. When you say he ought to be forward on the roof, on what part of the roof ought he to be?

A. Right in front. The forward part of the roof; the hurricane deck.

Q. What is the object of his going there?

A. In case of any command to be given.

Q. To direct the pilot?

A. To see that the pilot is doing his duty. To direct the pilot, and tell him to stop, go ahead, or back.

Q. If a descending boat is going round Twelve Mile Point, and she saw the lights of an ascending boat in the bend on the opposite side of the river, and did not know which way she was steering, what would be her course, what would be her proper course?

A. The ascending or descending boat?

Q. The descending boat.

A. It would be to go down the middle of the river; to pass down the middle of the river.

Q. I think, captain, you do not understand my question exactly, and I will ask you again: if a descending boat was going round Twelve Mile Point close on to it?

A. Close on to it?

Q. Yes; and she saw the lights of a boat in the bend, on the
722 opposite side of the river, and did not know what course she was pursuing, what would be the duty of the descending boat?

A. Why, to keep on where she was going.

Q. Would you, or not, consider it dangerous for her to steer across the lights of the other boat?

A. Across? Yes; I would not do it.

Q. If she attempted to get into the bend, would she not cross or almost steer for the lights of the other boat?

(Objected to by Mr. Campbell, as leading; witness answers:)

A. Of course she would.

Q. Where do the up-river steamers generally cross from Nine Mile Point?

A. They generally cross—(I don't know whether you know the place.)

Q. About how far above it?

A. At Lebranche's place, or Kennedy's it is called now; it belongs to Kennedy.

Q. How far is that above Nine Mile Point?

A. Well, I cannot tell exactly; about a couple of miles; probably two or three miles.

Q. What is the distance between Twelve Mile Point and Nine Mile Point?

A. About four miles to the lower end of the point.

Q. Why are they called Nine Mile Point and Twelve Mile Point?

A. Well, I don't know myself. There is one Nine Mile Point,
723 and the nine-mile post is below the point, and the twelve-mile post is just above the point.

Q. Do you know anything about the steamboat Richmond, Captain Grose?

A. Yes; I do.

Q. What do you know about her steering.

A. Well, she is called a very hard boat to steer, but I never steered her myself.

Q. Have you met her with other boats?

A. Yes; different times, and I judge that by her steering.

Q. Have you had any difficulty with her when you have been on other boats meeting her?

A. Yes; once with the Wild Wagoner, when she run into us. I was asleep at the time they ran into one another.

Q. When you have been up, have you had any difficulty in passing the Richmond?

A. No; not particularly, I have not. But I have always seen she had the name of being such a hard boat to steer; sheering about from one side to the other. I know that she steers very bad. I know that to be a fact, by going down one time with her, along with the Wild Wagoner.

Q. Where did the collision with the Wagoner occur?

A. Just below New Texas, near Morgan's Bend.

Q. In that trip, did you observe her steering?

A. Yes; she steered very bad that night.

Q. What was the trouble?

724 A. I had to stop the Wagoner two or three times to let her go by.

Q. Do you know any cause for this trouble in the steering of the Richmand?

A. No, sir; I don't exactly say whether it is the boat's fault or the pilot's fault; it may be the pilot's.

Cross-examined by Mr. CAMPBELL for the Richmond:

Q. What time was it you had this collision with the Wild Wagoner?

A. I don't remember the time.

Q. About how long ago was it?

A. Some time last year. I cannot state exactly what time it was.

Q. Who was captain of her at that time?

A. Of what boat?

Q. Who was captain of her at that time?

A. What boat?

Q. Of the Richmond?

A. I cannot recollect his name. I do not remember his name. He has got——

Q. Neal?

A. Neal; that is it.

Q. Don't you know that the Richmond was sold two years ago this March, by the Neals?

A. Indeed I do not remember. I disremember the circumstance. I did not take any items when I saw her a year ago. It may be more than that. I remember I was a pilot on the Wild Wagoner at that time.

Q. Did the Richmond belong to the same owners as she does now?

725 A. I do not know; but I think that was the name of the man that was on her—Neal.

Q. Who was held to be in fault about the collision?

A. Well, that I cannot tell; I do not remember how they decided the case; I never heard anything more about it.

Q. Was you at the wheel at the time?

A. Of the collision?

Q. Yes.

A. No, sir; I was asleep.

A. Yes, ; as well as I could tell.
Q. And then she headed right square across the river?
A. Yes, sir.
Q. If she was headed square across the river at that time, could you have seen her green light if she had one?
A. I think I could.
Q. If she had headed square across the river a quarter of a mile below Mrs. Waggerman's, whereabouts would she have struck the right bank coming up?
A. Right under the point.
Q. Beyond Mrs. Waggerman's, below the point?
A. Yes, sir.
Q. Would the current have drifted her up stream or down stream?
A. I believe the current runs down stream.
Q. Then it would have a tendency to have hauled her further in under the point; make a square crossing?
A. Yes, sir; came in closely under the point.
623 Q. How far would that have brought her under the point?
A. It would have brought her in, I suppose, between two hundred and fifty and three hundred yards.
Q. Not further than that?
A. I guess not.
Q. How far is Mrs. Waggerman's house below the point?
A. Not far below; nearly opposite the point.
Q. If she had attempted to cross half a mile below the point, where would she strike the shore if she had gone straight across the river?
A. A quarter of a mile below the point, if she went right square across the river.
Q. If she held her jackstaff right square across the river, how far below the point would she have fallen?
A. I think she would come in pretty near the same distance.
Q. Would not she have fallen more?
A. She might have come down a little; I do not know how much she would flank crossing the river; I was never on her.
Q. How much would they usually flank—a large boat?
A. Not a great deal.
Q. Flank two hundred yards?
A. No.
Q. Flank a hundred yards?
A. No, I guess not; hardly that far.
624 Q. Do not you know the Richmond was held on that point, quartering up the river?
A. No, I cannot tell whether she was held on that point only coming up the river; she was quartering up; not quartering either, but crossing the river, when he blew the second signals.
Q. She seemed to be holding in to the shore then?
A. About one third of the way from the bend shore, and looked to be holding her way up the river.
Q. When you blew your second signals?
A. She was coming across, holding on towards the point; in that direction.
Q. It was under the point?
A. Yes, sir; she struck us under the point.
Q. How far was she from the shore when she struck you?
A. Between two hundred and fifty and three hundred yards; in that neighborhood.

Q. Did not you testify before the inspectors that she was not over a hundred yards?

A. I did not.

Q. What did you testify to at that time; I say, at the time the blow was struck, how far did you testify before the inspectors your boat was from the shore?

A. I really do not remember.

Q. Did not you testify she was within a hundred yards?

A. I do not remember that I did; I do not recollect.

625 Q. Do you swear positively, now, she was two hundred and fifty yards from that shore when they struck?

A. As near as I could judge. I could not tell the exact distance, but I think she was in the neighborhood somewhere between two and three hundred yards; I could not tell. It was pretty exciting at that time.

Q. How far below the point was she at the time she struck?

A. About three hundred yards, as well as I remember.

Q. Was it below the willows or above?

A. It was alongside of the willows. The willows were above and below.

Q. Where does that eddy commence under that point?

A. It commences along the up side of these willows.

Q. I mean how far up under the point?

A. The eddy commences nearly up to the point.

Q. Above the willows?

A. No; there is no eddy above the willows; the bank is a straight bank up there. It is a cut bank.

Q. Was it at this cut bank the accident occurred?

A. No; below it.

Q. How far below it?

A. The cut bank is on the top-side of the point. This accident occurred in, I suppose, three hundred and fifty yards below this cut bank.

626 Q. Then there was an eddy where the accident occurred?

A. No; it was above. We were about the foot of the eddy; just below the eddy.

Q. Was the water slack there?

A. It is slack water, I believe.

Q. What effect would it have on a steamboat coming down stream to get her head caught in slack water under a point?

A. You mean to get her head in the eddy?

Q. Yes, sir.

A. She would have a tendency to swing; it would cause her to swing.

Q. Do you know how far out that eddy extends?

A. I do not know.

Q. Did not this boat get into the slack water there?

A. Not until after she was run in after she was struck.

Q. How do you know that?

A. I think we were too far out. I am satisfied of it.

Q. You say you do not know how far out the eddy extends?

A. I do not know.

Q. Did the eddy run out that far, or the slack water?

A. It is slack water as soon as you get under the point.

Q. She had struck slack water under the point?

627 A. I am not able to say whether she had or not.

Q. Which way did that boat back?

A. I am not able to say that, for I did not have hold of the wheel.

Q. Do you know what they did to your pilot?

A. I do not think that they did anything. The pilot was there still; I do not think there was anything done, that I remember; I know the Richmond stayed alongside, and took the cotton off the Wild Wagoner, and worked there for some time. The Richmond started to tow the Wagoner.

Q. Don't you know the Richmond got salvage for saving the cotton?

A. I heard they claimed salvage on the cotton; but I don't know what amount, nor how much; I never inquired.

Q. Do you suppose that they would ever allow the Richmond any salvage if she had been in the fault?

A. I don't know whether they would or not.

Q. How do you know the Richmond steers badly, when you never was on board of her to steer?

A. I seen her.

726 Q. Do you know whether that is the boat's or the pilot's fault?

A. That I do not; but I have heard it generally said that she is very hard to steer.

Q. Is a great big boat harder to steer than a little one?

A. There is some little boats a great deal harder to steer than big boats.

Q. What sized boats have you steered on?

A. I have steered them all sizes, from the shortest to the longest.

Q. What is the longest boat?

A. The Dexter; she is the longest and the easiest boat I ever steered. I don't know whether you know her length.

Q. Is the Dexter as long as the Richmond?

A. She is longer, I think; I don't know the length of the Richmond, but I think the Dexter was the longest.

Q. You know that the Dexter is a first-rate steering boat?

A. I know it, sir.

Q. What is the proper course for a descending boat approaching Twelve Mile Point; how ought she to hold as she turns that point?

A. I generally pass there about the middle of the river.

Q. Is that the proper course for a descending boat?

A. Yes, I think it is; I think that is proper; I do.

727 Q. If you were going down the river on a steamboat, and while you were above Twelve Mile Point you should hear a whistle of an ascending boat blowing for the starboard, what would you do?

A. I would answer her and pass to the starboard.

Q. Answer to pass to the starboard?

A. Yes.

Q. Suppose you saw that boat making across the river, what would you do then?

A. If I seen her crossing over, I would try to pass behind her.

Q. That is, you would try to pass to the bend side?

A. Yes.

Q. But suppose you were apprehensive that there might be some trouble, what would you do if you heard her whistle; would not you stop your boat and let her float?

A. I don't think I would stop her, if I saw her coming up and crossing the river.

Q. If you were apprehensive of the current?

A. I would not be apprehensive of the current at all; if I blew for the starboard, she should blow for the starboard.

Q. But suppose you were close in on the point, instead of being in

the river in your proper position, and the ascending boat blew for the starboard, and you were apprehensive of a collision, what would you do?

728 A. Then I would hold her in to that point I happened to be on, and blow to show what side I wanted to take.

Q. Would not you stop and back?

A. Not until I found out whether she answered my whistle or not; unless we were on the top of one another.

Q. Suppose she was within eight hundred yards of you, before you crossed her; what would you do then?

A. Then I would stop.

Q. Stop and back?

A. Yes, sir.

Q. What is the proper course for an ascending boat, in going from Nine Mile Point to Twelve Mile Point?

A. The course going up?

Q. The ascending boat?

A. Why, to hold her just as close as you can to the points.

Q. I say a boat going from Nine Mile Point to Twelve Mile Point?

A. Well, we would start to cross over to Twelve Mile Point.

Q. How far below the point would she drop in?

A. Some go to one point, and others a little higher.

Q. How far below Twelve Mile Point would be a proper place for her to fall in on that shore?

A. About one mile.

Q. How would she hold up then, after she got in on that shore; hold up along the shore under the point?

729 A. Yes, sir.

Q. You would say, then, in that course she was in her proper position in the river?

A. I should judge so.

Q. How would you make the crossing from Nine Mile Point to Twelve Mile Point, starting from Kennedy's; would you make a long crossing?

A. Yes, sir; I would make a long crossing.

Q. Captain, is there any slack-water under Twelve Mile Point?

A. Yes, a little; not much. There is an eddy just a little below the point.

Q. Ain't it slack on the bend, down under that shore?

A. Well, it is.

Q. Now, suppose a boat was coming down the river, hugging Twelve Mile Point, and she get her head in slack-water immediately under the bend; what effect would that have on her course?

A. It would send her into the bank.

Q. Round her to?

A. A boat striking an eddy coming down, supposing she would do it, that would have a tendency of making her bow going into the bank towards the shore; then if you let go the wheel, and leave the wheel, the boat would come round.

Q. That is, round to?

A. Yes.

Q. Suppose a man retained hold of the wheel, and her head
730 should get into the eddy, and her stern in the current, what effect would that have upon her course?

A. It would have no effect if the man would give her the wheel; it might have an effect to head her in a little, but have no effect on her course.

Q. Then you say that a boat going down stream, round Twelve Mile Point, if she got her head into an eddy and her stern into the current, it would have no effect on her course if you were at the wheel?

A. No, sir.

Q. Have you ever seen a boat leaving New Orleans and strike the current and turn pretty near round?

A. I have.

Q. Was there a man at the wheel at the time?

A. I do not know.

Q. Is there a man at the wheel usually?

A. I suppose he was; I could not swear whether he was or not.

Q. Do steamboats that come out from New Orleans with pilots generally go without a pilot at the wheel?

A. Not that I know of; I do not know of any.

Q. What is your belief about it?

A. I believe he was.

Q. Captain, there has been a good many old pilots who have testified in this case, and I believe all have testified that a boat going round a point, like Twelve Mile Point, if she should get her head into an eddy and her stern into the current, that it would effect her course: now, how do you reconcile your testimony with theirs?

731 A. I don't know that; I don't know whether they could or not; I have no idea whether they could or not.

Q. You testified a while ago that this circumstance would have the effect of turning her head towards the shore?

A. Yes, sir.

Q. Now, do you deny that?

A. No; but she would not round entirely to; I would not stop or change my course.

Q. Would it turn her head one way or the other?

A. Of course it would.

Q. How?

A. Wherever the eddy would be.

Q. Towards the shore?

A. Yes, sir.

Q. Under Twelve Mile Point?

A. Yes, sir.

Q. Now, suppose a boat was stopped—her engines stopped—and she was allowed to float going down the river above Twelve Mile Point, what part of the river, where would the current carry her to?

A. Carry her into the bend.

Q. Opposite to the point, you mean?

A. Of course; all bends are opposite points.

Q. Is it a captain's duty to stay on the hurricane-roof all the time, or is not it his duty to stay about the boat?

A. Now, I said it was his duty to stay about the boat.

732 Q. That is the same with the mate when he is on watch?

A. Yes, sir.

Examined by Mr. MARR for the Sabine:

Q. If two boats meet, one going up and one coming down stream, and the boat going up perceives that the down boat is in her wrong place, what is the duty of the up-going boat?

A. The ascending boat blows her whistle first; the descending boat answers it, provided they want to pass on that side they are on, and if she doesn't, she blows the contrary. The ascending boat has to stop

and let her pass on that side, whatever side it is. There is a law for that, and it is the general rule of steamboats.

Q. Captain Grose, does it happen at all in the trades in which you have been engaged that a boat sometimes gets her head in an eddy and her stern in a current? Has it happened with you?

A. Of course it has.

Q. Now, sir, when that is the state of things, is it possible or impossible to prevent a boat swinging round by the use of your rudder?

A. Possible! I have done it thousands of times.

Q. If a boat in coming down stream should strike an eddy, and the pilot didn't check her, what would happen to the boat?

A. If he didn't check her up, she would swing round.

733 Q. What effect would that have on the course of the boat?

A. To turn her head up stream.

Q. When you are above Twelve Mile Point at Soniat's gate, how far down the river, at an ordinary stage of water, can you see a boat below coming up?

A. Well, you can see her a long ways; I can't say the distance exactly; but I suppose about a mile probably.

Q. If you were coming down the river, and just about making the rounding of Twelve Mile Point, and discovered the lights of a boat on the opposite side, above the place from which boats usually start across from the Nine Mile Point to the Twelve Mile Point, what would you do with your down-stream boat?

A. I would try to keep on the side I was on, and let the other boat pass on the other side, of course.

Q. When a boat starts out from Kennedy's to make the crossing, how far under the Twelve Mile Point does she usually fall?

A. Well, I said about a mile.

Q. About half a mile?

A. About that.

Q. How far would she hold out from the shore; how far out from the shore would she hold from Twelve Mile Point?

A. I can't tell the distance exactly. I suppose about—I generally hold there about three or four lengths of a steamboat.

734 Q. Do you know what the stage of the water was on the 11th of February last.

A. I can't tell. I haven't been on the river for some time.

By Mr. CAMPBELL:

Q. When did you quit the river, captain?

A. When did I quit the river?

Q. Yes.

A. Some four or five months. I don't know that I have quit the river yet.

Q. How wide is that eddy under Twelve Mile Point, at the willows?

A. Well, it's very narrow. It's not very much of an eddy there. Below Twelve Mile Point the space is probably a little over a length of three hundred feet.

Q. And you say there is not much of an eddy there?

A. No, sir; not much of an eddy at Twelve Mile Point.

Q. Have you had occasion to land anywhere on that shore, near Twelve Mile Point, in your packet trade?

A. Yes, sir; under it, at it, above it, below it, and all around it.

Q. Have you observed whether, at ordinary stage of water, there is any difficulty in landing a boat at Twelve Mile Point on that shore?

A. I can land there just as well as anywhere else.

Examined by Mr. EGAN:

735 Q. If your boat struck that eddy at Twelve Mile Point, would it have any effect in pushing you on shore; and if it did, couldn't you counteract the effect by the wheel?

A. Yes.

(The above question is objected to by Mr. Campbell on the ground that it is leading.)

Q. How far would it make the head of your boat deviate; how many points?

A. About twenty or thirty feet.

Q. If a boat running seven or eight miles an hour struck an eddy—the strongest eddy—how far would her head deviate, counteracting it by the rudder?

A. If the man was steering properly it would not deviate hardly any.

Q. What do you mean by hardly any?

A. Probably the length of this room; about thirty feet. I never find much deviation coming into an eddy.

Q. Then the pilot can, by handling his rudder, prevent the boat from swinging in consequence of striking an eddy?

A. Of course he can.

Q. If a captain of a steamboat hears a signal blown, what is his duty?

A. To come on deck.

Q. What part of the deck?

A. The hurricane deck.

Q. What part of the hurricane deck?

A. The forward.

Q. If the mate was on watch, what would be his duty?

A. To do the same.

736 Q. What is the meaning of two gongs when the boat is going ahead?

A. Two gongs when she is going ahead?

Q. Yes.

A. I don't know; that is a new meaning to me.

Q. I mean by sounding two gongs to the engineer.

A. We generally ring two gongs when we are going to make a landing in our trade.

Q. What's the signal to open her out—to give her all the steam she has without any previous signals?

A. Well, they vary in that. I halloo through a trumpet, and tell the engineer to go ahead hard.

Q. What do other boats do?

A. I don't know.

Q. Have all boats got trumpets?

A. Most generally.

Q. Have you seen any without them?

A. Not lately.

Cross-examined by Mr. CAMPBELL for the Richmond?

Q. Captain, whereabouts is Waggerman's?

A. Opposite Twelve Mile Point.

Q. Is Soniat's opposite?

A. No; above.

Q. Is Waggerman's right at the point?

A. Yes.

Q. Captain, you have stated in your testimony what signal should be blown by two steamers meeting in the river?

A. Yes.

737 Q. Do you know whether that is according to the rules laid down by the supervising inspectors?

A. No, I do not know; I know I've read some of it.

Q. Do you know what the first rule is?

A. For meeting steamboats?

Q. The first rule laid down by supervising inspectors?

A. No, I don't; I can't tell you.

Q. The second rule?

A. No, I don't; I can't tell the first from the last.

Q. The fourth rule?

A. No.

Q. But ain't the rules laid down by the supervising inspectors those that pilots are bound to follow?

A. Yes.

Examination in chief resumed by Mr. EGAN:

Q. Captain, if you were on an ascending steamboat, and in the bend under Twelve Mile Point, and you saw a descending boat or the lights of a descending boat rounding Twelve Mile Point in on that shore, what would be your duty on the ascending boat?

A. I would then give her room and let her round to and pass outside of her, or stop if I found her coming too close.

Q. What course would you keep the ascending boat if you were on the ascending boat?

A. I would haul her to the opposite shore—to the bend shore.

Q. Would you or not consider it dangerous to steer across her lights?

738 A. Yes, at any time I would; I would always consider that dangerous.

Q. How far off can you tell the course of a boat at night?

A. Well, that is owing to what kind of a night it is. On a very dark night you can't tell very far.

Q. An ordinary starlit night, at what distance can you tell the course of a steamboat?

A. Just as far as I can see her lights.

Q. Can you tell exactly how she is heading?

A. Yes; pretty nearly, by her lights.

Q. If you could see her a mile off, could you tell how she was heading?

A. Yes; her lights would show that, in what direction she was going—going down or coming up.

Q. Would it or not show the exact point, or merely that she was an ascending or descending boat?

A. Not the exact point, not exactly that; but it would show which way she was going.

SATURDAY, *March 9th*, 1872.

Captain JOHN E. FORD, sworn by deputy clerk United States court, and examined for the Sabine by Mr. EGAN:

Q. You are in command, Captain Ford, of the tug Nellie?

A. Yes.

Q. What is your business, Captain Ford; what is your trade?

A. I am captain and pilot of the tug now.

Q. Have you ever been an engineer?

739 A. Yes, sir.
Q. For what length of time?
A. About ten or twelve years.
Q. How long have you been acting in any other capacity than that of an engineer?
A. On steamboats?
Q. Yes?
A. About fourteen years.
Q. How long did you act as engineer of a boat?
A. About ten years.
Q. When did you stop?
A. Stop engineering?
Q. Yes.
A. On the 8th day of March, 1862.
Q. Were you employed to go and attend to the wreck of the Sabine?
A. Yes, a man came after me to go up there.
Q. Who?
A. The clerk, I understand; I don't know his name.
Q. What day was that?
A. The 11th of February, I think—Sunday—the day after she sunk.
Q. What did he ask you to do?
A. He said he wanted me to go up there and bring two barges up and bring the cotton down.
Q. What were you to bring the barges up with?
A. The tug Nellie.
Q. Did you go up there?
A. Yes.
Q. When did you reach the wreck?
740 A. I think it was about twelve or one o'clock.
Q. Where did you find her?
A. I found her sunk in the river about a mile below Twelve Mile Point.
Q. How far was she from the shore?
A. I suppose she was about three hundred yards.
Q. What depth of water was there?
A. From the looks of the Sabine, I think it must have been about eleven or twelve feet.
Q. What was the condition of the boat when you saw her? Describe her.
A. She was lying right across the current and the Richmond lying on the upper side of her.
Q. What do you mean by upper side?
A. She was lying right across the river with her head towards the New Orleans shore.
Q. What do you mean by the upper side?
A. The side furthest up the river.
Q. Was she careening over?
A. Yes.
Q. And the wind blowing at the time?
A. Yes, sir.
Q. Which way?
A. Right square down the river.
Q. What made her careen over?
A. The Richmond I suppose, when the Richmond straightened she straightened.
Q. Did you go on board of her?

A. Yes.

Q. What did you find on board?

741 A. There was a very little of anything on board upstairs. The furniture had all been taken off and there was nothing in the pantry except broken glass and dishes. There was some below they was taking off on the Richmond.

Q. Were there any holes cut in her?

A. Yes, sir; in the boiler deck.

Q. What part of the boiler deck?

A. In the ladies' cabin and in the gentlemen's cabin.

Q. How large was these holes?

A. About (10) ten feet by five in the ladies' cabin; I don't know how large the one was in the gentlemen's cabin.

Q. Who cut them holes?

A. I don't know his name; he is the carpenter of the Richmond.

Q. What was the object of cutting them?

A. I don't know.

Q. Did you see any object in cutting them?

A. No, sir.

Q. Was the carpet taken up before they were cut?

A. No; they cut through the carpet in the ladies' cabin, and afterwards it got in his way and it was torn out of the way.

Q. Was the water up as high as this cabin?

A. No, sir; it was about six feet below, right where the hole was cut.

Q. Did you measure the water she was laying in?

A. No, sir.

Q. Did you attempt to save anything from her?

742 A. I was requested to take the safe and bell off her.

Q. Who by?

A. The captain of the Sabine or the man in command of the Sabine.

Q. Well, did you do it?

A. No, sir.

Q. Why?

A. I started to take it, and Captain Green said he would attend to it, and I stopped.

Q. Did you do anything towards the preservation of the property of the boat?

A. No, sir; when I took the barges there as I have stated——

Q. Why didn't you take any of the things off the boat?

A. It was no use of me taking anything; the Richmond's crew was taking everything off; I didn't have only four or five men on the tug.

Q. Was there any objections made to your taking things off the boat?

A. No; only the safe and bell. They was the only things I offered to take off.

Q. Who objected to your taking them off?

A. Captain Green.

Q. How many bells are there in an engine room?

A. On a side-wheel boat there's four and a gong and a whistle.

Q. Where are those bells situated?

743 A. There's two small ones sets at the forward end of the cylinder, and the two large ones at the after end.

Q. Where's the gong situated?

A. The gong sets near the center of the boat; sometimes a little more one side than the other, at the after end of the boilers.

Q. What's the signal from the pilot to the engineer when he wants to stop the boat?

A. He rings the stopping bell when he wants to stop.
Q. What does he do when he wants to go ahead?
A. He rings the go-ahead bell.
Q. The same one?
A. The same one.
Q. What does he do when he wants to back hard?
A. He rings the little bell twice—the backing bell.
Q. What does he do when he wants to back strong?
A. He rings the gong twice; that's the way they do on all boats that ever I've been on.
Q. What does he do when the boat is going ahead when he wants to go ahead faster?
A. He rings the gong twice, just the same as in backing.
Q. What's the meaning of ringing the gong twice?
A. It's to give her all the steam she's got.
Q. Will that increase the power?
A. Yes.
Q. About how much?
A. The gong won't, but the engineer can.
744 Q. How much will it increase it?
A. I suppose it will increase it one-third by working full stroke.
Q. Does it differ on different boats?
A. Yes, sir.
Q. Is this an art well understood by all engineers?
A. Yes; it is by all that I've ever steamboated with.
Q. How many different ones have you steamboated with?
A. I can't tell.
Q. About how many?
A. I've steamboated with a hundred engineers.
Q. Have you been employed on many different boats as engineer?
A. Not a great many; I suppose twelve, thirteen or fourteen, somewhere along there.
Q. Have you ever seen any different rule prevail on any?
A. Not for handling the engines.
Q. When you speak of steamboating with a hundred engineers, do you mean on one boat?
A. No, sir, on different boats; I've been with some clerks and captains that were practical engineers. The captain of the Belle Lee is a practical engineer.
Q. Have you seen the boat since the accident?
A. Yes, sir; since she came down.
Q. Where did you see her?
A. At the foot of Thalia street.
Q. What was the description of her injury?
745 A. She was cut into her starboard bow, near about two or three feet aft of the Sabine's stem.
Q. What distance was the cut in?
A. I suppose it was about twelve or fourteen feet.
NOTE.—Witness on being shown three photographs of the Sabine, taken in different positions, is asked whether No. 1 gives a good idea of the injuries received by the Sabine, and says:
A. I never looked at her from this direction; I was on the wharf, a little higher than her deck; my head was about eight feet higher than her deck.

Q. Witness is shown photograph No. 2 and asked, Does that give a good idea of the wound?

A. There is very litle difference in these; this (No. 2) is deeper in the water than that one; it appears to be.

Witness is shown No. 3, and says:

A. Well, that appears pretty rugged.

Q. Do they give a good idea of the injuries they sustained or not?

A. Yes, sir.

Q. From your knowledge of steamboat matters, how would you suppose the Sabine received that injury?

A. Well, it was done by the Richmond, I suppose, running into her; but if you had went down to the river and come up town and found this (witness points to one of the photographs), you wouldn't know what it was; I don't find any resemblance to the boat, somehow; if I
746 had found that on the street, I wouldn't have taken it for a photograph of the break in the bow of the Sabine.

Q. Could that injury have been sustained in any other manner than by a boat running into her?

A. No, sir; I don't suppose it could.

Cross-examined by Mr. CAMPBELL for the Richmond:

Q. How old are you Captain Ford?

A. I am forty-eight on the 11th of this month, March.

Q. Have you been on the river twenty-four years?

A. Yes, about twenty-four or twenty-five years; I was knife-shiner first and then promoted to third cook.

Q. How do you know that the carpenter of the Richmond cut that hole in the Sabine?

A. I seen him.

Q To get out cotton?

A. No, sir; there was no use for it; the boat was listed to starboard then; they floated the cotton to the guards of the Richmond, and hoisted it up by the capstan with a fall—a block and rope.

Q. What became of the bell and safe?

A. I left them when I came away.

Q. Do you know whether the Richmond took them off or not?

A. I don't.

Q. Is there any act of Congress regulating how engine bells shall be rung?

A. Not on steamboats on this river.

Q. I mean on the river boats?

747 A. No, sir; I don't think there is; I have never seen it.

Q. Did you ever run on a boat with engines like the Richmond's?

A. No, sir.

Q. Do you know how the movements of the engines of the Richmond are regulated?

A. No, sir.

Q. Do you know whether she has got any bells, of your own knowledge?

A. No, sir.

Q. What do they ring when a boat has got no gongs?

A. They sometimes have a bell and sometimes a whistle; a bell they call an alarm bell.

Q. Have you seen any boats without gongs?

A. Oh, yes; with large bells with a spring to it, to ring it; they hit it one lick just like a gong.

GREENLEAF ANDREWS sworn by Commissioner Cohen and examined for the Sabine:

Q. Captain Andrews, what is your calling?

A. I am president and superintendent of the New Orleans Wrecking Company.

Q. Captain Andrews, where were you on the 10th day of February?

A. The 5th?

Q. The 10th?

A. The 10th day of February?

Q. Yes.

A. I left Bayou Sara bound to New Orleans.

748 Q. What boat were you on?

A. The steamer Travis Wright.

Q. Did you that day see the Sabine?

A. The Sabine passed down by us some fifteen minutes before we got under way and we passed her a short distance above Baton Rouge.

Q. Did you pay any attention to her in the river that day?

A. Yes; I observed she had a nice load on; I thought a large load of cotton; and I remarked that I didn't think she was deep.

Q. Have you had any experience about the carrying capacity of boats?

A. I've been with steamboats thirty years.

Q. Now, captain, what is your judgment as to that boat being overloaded on that trip?

A. My opinion is that she was not overloaded on that trip.

Q. Did you have any occasion to observe how she was managed or handled on that trip?

A. No, sir.

Q. What time did she pass Baton Rouge that day?

A. Between twelve and one; somewheres in that neighborhood.

Q. Did you notice at what speed she was coming down?

A. Well, I couldn't tell the speed; we were a long time astern of her before we passed her, and we were lighter than she was.

749 Q. When did you see the Sabine again after that?

A. On Sunday evening, about eight o'clock.

Q. Sunday evening last?

A. Sunday evening, the 11th of February.

Q. Where was she then?

A. She was sunk in the Mississippi River a short distance below Twelve Mile Point, and I should judge about three hundred yards from the shore, opposite Spangenberg's plantation.

Q. You had arrived in New Orleans with the Travis Wright, and returned to the wreck of the boat when you saw her sunk?

A. Yes; I returned to the wreck of the boat after arriving here.

Q. Did you observe whether the guards of the Sabine were under water when she was in the neighborhood of Baton Rouge, coming down?

A. I observed that she was well out of water forward and aft, and that the guards did not touch midships.

Q. Did you raise the boat, captain?

A. Yes, with the assistance of my men and boats.

Q. The New Orleans Wrecking Company's boats?

A. Yes, sir.

Q. You are president of that company?

A. Yes; I am not only the president but superintendent as well. I am always where the work is going on.

Q. After you succeeded in raising her, did you make an examination of the wound she received?

750 A. No further than I could see.

Q. Explain how she was wounded.

A. By the collision, I presume.

Q. What part of the boat was wounded?

A. Well, it commenced about six to eight feet from the stem. I should judge the break in her was about eight or ten feet long, cutting in on deck to about two and a half to three feet beyond midships.

Q. Did you observe how far she was cut down into her hold?

A. I know that the knuckle clamp was cut off; how much farther it is cut I can't say, because there is so much débris. I couldn't send my men in there to see.

Q. What is a knuckle clamp?

A. It is a clamp bolted on the knuckles, both sides, to strengthen them.

Q. What part of a steamboat coming in collision with another boat could have inflicted the wound that you saw on that boat?

A. The bow; the stem of the boat.

Q. Do you know any other part of the steamboat that could have penetrated as far into the Sabine?

A. I don't think any other part could have penetrated so far.

Q. What sort of timbers are in the bows of the Sabine?

A. Oak.

Q. Did you examine the quality of the timber and see how it looked?

751 A. I did. It looked good.

Q Can you say from the appearance of the wound in the Sabine whether it was cut or mashed in?

A. I can hardly answer that question. I suppose it was cut.

Q. It has been proven in this case that after the boats struck they swung around broadside to each other, the larboard side of the Richmond coming in contact with the starboard side of the Sabine, and it was a pretty considerable crash. Now the object of our inquiry is to ascertain whether the wound was produced by the crushing or the blow that was given.

A. In my opinion it must have been given by a blow when she struck. You can't break a hole like that with the side of a boat; and besides, you can see where she came together on the sides.

Q. You say you can see where the boats come together when they swung around?

A. Yes; you can see where she bent that side; you can see the crush on the side.

Q. That was the effect of swinging round?

A. Yes.

Q. Did you make any examination of the Richmond to see how she was effected by this collision?

A. I did not.

Q. You don't know that there was a knee broken on the larboard quarter of the Richmond?

A. I do not.

Q. Captain, how would you say, from the appearance of the wound on the Sabine, the blow ranged?

752 A. My opinion is, from forward aft a little.

Q. Can you state whether that wound is wider at the outer part, and the blow whether it gradually narrows to the point where the force of is expended?

A. That's its shape, sir. It is wider at the outer part of the hole than the inner; it narrows inwards.

Q. Did you observe the capstan of the Sabine?

A. Yes, sir.

Q. Did you see what effect had been produced on the capstan by the collision?

A. Yes.

Q. What was it?

A. All broken up; that is, the gearing of the capstan was.

Q. The gearing is cast iron?

A. Yes, sir.

Q. Was the spindle broken?

A. I can't say, sir, because I never took it out. I never looked at it.

Q. Did you notice the engine that runs the capstan, was it broken?

A. I can't say whether it was broken or not.

Q. Did you observe the timbers that the capstan rested on?

A. I observed the deck.

Q. Wasn't the capstan fastened to something in the hold of the vessel?

A. I never examined.

Q. Are you able to swear or to affirm in your just opinion as to
753 whether the boat that inflicted that wound was moving forward, or was struck by the other boat, the Sabine?

A. Not seeing the collision, I would not feel myself qualified to give any opinion at all that would be, in my opinion, worth anything.

Q. How far do you think the place at which you saw the Sabine resting on Sunday was from the turning of Twelve Mile Point?

A. A mile or a mile and a quarter.

Q. How long were you working on the Sabine to get her up?

A. I commenced on the 11th day of February, and I had her up on the 23rd, but couldn't move her from there until the 24th.

Q. You raised her with her cargo in her?

A. Yes, sir; with a portion of it, sir.

Q. Did you take any portion out before you raised her?

A. Yes; I took some cotton out of her.

Q. How many bales did you take out?

A. I can't tell. I can tell you how many we left in. There was one hundred and eighty one on board, altogether. There was four on deck. That would leave a hundred and seventy-seven bales in the hold.

Q. Captain, in the course of raising her did you have occasion to see whether she was a very strong boat?

A. Yes; I found her a very strong boat. She didn't slack her
754 hog-chains in the raising of her. We had four chains under the ends raising her—two forward the boilers and two under the stern.

Q. Did you observe her machinery?

A. Yes, sir.

Q. What's your opinion of the machinery as adapted to a boat of her class?

A. 'Twas very fine machinery.

Q. Did you notice the apparatus for shifting the engines?

A. Yes, sir.

Q. Tell us about what kind was it.

A. I cannot. I'm not an engineer. I had only a look at it myself.

Q. Is it in the shape of a bar connected with the two engines, and the bar connected with a lever in the center, by which you can change the motion of the engines with that power?

A. I think that's the intention.

Q. If that thing works right the engineer has only to work that lever—to reach out his hand to work that lever?

A. Yes; that's the object of it.

Q. From what you saw of the Sabine, what do you think of her capacity? How many bales of cotton could she carry safely?

A. I can't say. I could tell you better if I had her loaded.

755 Q. When you have a boat loaded down to within three or four inches of the water, doesn't it take comparatively more cargo to put her down a few inches than when you began to load her?

A. Yes, sir; if she has any flare to her it does. A boat is always bigger at the guard-line than at the water-line, consequently it takes more to put her down into the water than it does when you first commence loading her.

Q. Because she is displacing more water then?

A. Yes; at every inch she goes down.

By Mr. COHEN, for the Merchants' Mutual Insurance Company:

Q. Suppose that the blow had been given at right angles, and that the effect of the blow was to cause the Sabine to move, wouldn't that movement, just after the blow had been received, cause the wound that had been received at right angles to part more than if the boat was stationary, and that blow given by the Richmond would have a turn, so that, although the blow might have been originally at right angles, it might deflect in consequence of the movement of the boat?

A. As a matter of course.

Q. What is the comparative size of the boats?

A. I don't know the tonnage of either. I know that one is a great deal bigger boat than the other.

Q. Looking at the two boats, can't you tell whether the tonnage of the Richmond is two or three times more than that off the Sabine?

A. I really don't know, because in looking at a boat you can't always tell that.

756 Q. What would be the effect of a blow by a boat of the size of the Richmond on a boat of the size of the Sabine?

A. Well, the effect of a blow of a boat of the size and capacity of the Richmond on the Sabine would naturally inflict a greater wound on the Sabine than the Sabine could on the Richmond.

Q. What would be the effect of the blow in turning the Sabine?

A. It would turn her quicker than a large boat. When a boat is small and light she turns quicker.

Q. Have you seen the photographs that were taken off the Sabine?

A. I have not, sir.

(Three photographs—the same as shown to previous witnesses—were handed to witness, who was asked:)

Q. Do they represent the injury that was inflicted on the Sabine correctly?

A. No. 1 is a very good representation, taking it from forward.

No. 2 was certainly taken from forward.

No 3, it looks to me as though it was taken abreast. It must have been, because here's the Travis Wright over there. (Witness pointing to the Travis Wright, which boat appeared in the photograph.)

Q. Are the photographs correct representations of the wreck, as you saw it?

A. No. 3 is; the other two don't seem to show the break well.

757 Q. Although the other two don't show the break well, don't they show it correctly from the point of view they were taken from?

A. Yes; as well as it could be from the obstructions in view.

Cross examined by Mr. BILLINGS:

Q. Captain, how much did you notice the Sabine on Saturday or on Sunday?

A. On Saturday, you mean?

Q. Yes.

A. Well, we ran under her stern sometime; she passed Bayou Sara before we got under weigh. I was looking at the boat; she was a new boat and I was paying more attention than to a boat I was accustomed to seeing.

Q. Was there anything that called your attention specially to her beyond the fact that she was a boat new to you?

A. Nothing.

Q. How many bales of cotton could she carry?

A. I can't tell you unless I loaded her.

Q. If the boat was loaded with fifteen hundred and seventy-one bales, wouldn't the question of whether that was an excessive cargo depend very much on how the bales were stowed?

(The above question is objected to counsel for the Sabine.)

A. No answer for above reason.

758 Q. There were fifteen hundred and seventy-one bales on the Sabine, and her capacity was four hundred tons; was fifteen hundred and seventy-one bales an excessive cargo for her?

A. You might put fifteen hundred and seventy-one bales on her and make it an excessive cargo by not loading her properly.

Q. Now, if that cargo was stowed largely on the front part of the boat, would that make her unmana'ble if she got in eddies?

A. If it was; yes.

Q. Yes?

A. Yes.

Q. How fast did your boat go when you passed the Sabine?

A. Well, I should judge we were making nine or nine *or* a half miles an hour.

Q. And how much was the Sabine making?

A. The Sabine must have been making over eight and a half, because we were a long time coming up with her.

Q. You do not know where the Sabine sunk?

A. I do not.

Q. She drifted?

A. I was told she did.

Q. And you don't know where the collision took place?

A. I do not, sir.

Q. Now, sir, with reference to the wound that was given by the Sabine to the Richmond, what leads you to say that that wound was given from the forward part of the Sabine towards the after part?

759 A. The appearance of the break goes that way.

Q. The appearance of the *the* break is from forward aft?

A. Slightly, because the last of the extreme part of the break indicates that there was some plank cut, which we tore up, that indicated that the break was from forward aft.

Q. What do you mean by extreme part of it?

A. The extreme end of the cutting. There's some plank cut in there that we turned up that was there when I first saw.

Q. Now, captain, I'll put this case to you: Suppose the Sabine was crossing the course of the Richmond, and the Richmond was moving backwards, which would make her motion in the same direction with the Sabine, but less, and the Sabine ran against her herself, wouldn't the effect be the same, as far as the blow was concerned, as it would have been if the Richmond had run into the Sabine, the Richmond being much the heavier boat?

A. I can't imagine if the Richmond was going astern how a collision would occur.

Q. If she was moving very slowly astern, and the Sabine swept down against her, wouldn't the blow have precisely the same effect?

A. I don't think that so heavy a blow could have been struck so if this boat had been backing down stream. The Sabine couldn't sag down on her hard enough to inflict it.

760 Q. If the Richmond had been moving forward, considering the force the Richmond would carry from her size, wouldn't she have run right through her?

A. I never knew of an instance of a boat running through another except one case. I know if a boat double the size of another run into one she might have done.

Q. Don't you know she would?

A. She would if she didn't fetch up against something that stopped her. Didn't the pile of cotton stop her?

Q. Did you see this nigger engine in the hold of the Sabine?

A. I did, sir.

Q. You think that could stop the Richmond?

A. I never looked at it to see if it was broke. I suppose not, sir.

Q. You speak of two boats, Captain Andrews, one of which cut through the other; what boats?

A. The Ohio and Diana. The Diana floated off in two pieces.

Q. Now upon the theory that you have advanced, how do you account for the mashing on the side of the Sabine, aft of the place where the cut was made?

A. In swinging around the two boats came together.

Q. Which boat, in your opinion, swung round?

A. Both.

Q. Both?

A. Yes.

761 Q. Now, in that case, if the collision bent the stem of the Richmond, which way would it be bent, on your theory?

A. Well, I should suppose it would twist her stem to the port; that is, the larboard side.

Q. From the starboard to the larboard side?

A. I should judge so.

Q. Suppose, in fact, it was bent the other way; would that show that your theory was wrong?

A. The stem might have been bent in the collision; it might have gone one way or the other, not in the swinging.

Q. Is there anything in this blow that shows that anything like that took place?

A. There's no appearance; I cannot tell.

Q. If the stem of the Richmond was bent from the larboard to the starboard, when would you suppose that was caused?

A. It might have been when she struck or swung round; it might have been either.

Q. Captain Andrews, on your theory, where could you expect to find the marks, on the stem or prow of the Richmond; on which side?

A. Well, I should suppose they might find them on both side'.

Q. Suppose you didn't find any except on the larboard side, and a hole knocked in on the larboard side?

A. Well, I should come to the conclusion that in entering the boat met with the hardest resistance on that side.

762 Q. Wouldn't you come to the conclusion that instead of it being a cut, wouldn't that lead you to infer that it was a mash; that the Richmond was pushed in sideways, if you found all the marks on the larboard side of the Richmond, and no marks on the starboard side, wouldn't you?

A. I can't imagine how a boat could be pushed in beyond her midships; and more particularly how she could be pushed in beyond amidships with her guards piled up with cotton.

Q. Now, what do you do with the facts, supposing they are facts, that there is no wound on the starboard side of the Richmond and there is on the larboard?

A. I should come to the conclusion that she found something harder on that side than on the other.

Q. And if you found no marks on the starboard side?

A. Yes.

Q. If it had been done by a cut, wouldn't it have followed necessarily that there would have been wounds on both sides of the stem?

A. I beg to differ with you; I said it was a mash all the time.

Q. I understand you to say that you would have looked if the Richmond went into the Sabine, both boats going in the same direction—that you would have expected to have found marks on both sides of the stem of the Richmond; would you or not?

A. I should expect to find some marks on both sides of the Richmond, from the appearance of the hole; I never looked at the Richmond's bow.

763 Q. If you found marks on the larboard side and you found the stem of the Richmond knocked off on that side, wouldn't you consider that your theory was wrong?

A. No; I would suppose she got the heaviest portion on that side.

Q. Suppose that the Sabine in motion was brought against the Richmond, and was brought in such a way that the wound was cut from aft forward, and the Sabine by that wound was mashed in, and the wound was from aft forward, wouldn't, in that case, the larboard side of the stem of the Richmond have been the part which would have received all the blow and force?

A. No, sir; because both sides would have received it; it would have cut right in.

Q. Can't you see that if the Richmond had remained stationary in the river and the Sabine had run across her bows—can't you see she would have mashed herself as she has?

A. No, sir; not so deep.

Q. Why not?

A. Because the Richmond would have to have a little momentum ahead, or it wouldn't be possible to do it.

Q. How deep would the mashing have taken place?

A. It would have mashed along aft.

Q. Wouldn't that have the effect of turning the Richmond round?

A. Somewhat.

764 Q. And make, whatever mashing was made, from aft forward?

A. It would have made the mashing from forward aft.

Q. And meanwhile, wouldn't the prow of the Richmond—the stem of the Richmond—be carried right in as the mashing came?

A. She must have had some momentum to go ahead.

Q. If the Sabine were moving at the rate of six or seven miles an hour, and without perceptibly retarding her motion run across the bows of the Richmond, wouldn't there have been force enough to have carried the stem by this mashing in as far as you found it went?

A. No, sir; I think not.

Q. You said, Captain Andrews, that after a vessel was partially laden it took more to bring her down an inch than it did before she was laden at all, and that depended on the flare?

A. Yes, sir.

Q. What is the flare of the Sabine?

A. I can't tell you, sir; I haven't examined her hull.

Q. Are the bottom planks of the Sabine broken?

A. I can't tell you how far down, because my divers couldn't get in there on account of the débris and broken timber, but as far as we could get down they were broke.

Q. I am speaking of the plank at the bottom of the Sabine.

765 A. I can't tell you.

Q. Now, sir, suppose they are not broken?

A. I don't suppose at all.

Q. Suppose that the plank of the bottom of the Sabine are not broken, with the water that the Richmond drew, how can you account for that on your theory that the Richmond and the Sabine came together as they did?

A. I answered before that the knuckle-clamp is broken off.

Q. The knuckle-clamp is broken?

A. Yes, sir; and I am satisfied, sir, that the bottom planks are broken.

Q. Now, if you shouldn't find the bottom planks broken, wouldn't that be entirely inconsistent with your theory?

A. It depends on the rake of the boat's stem.

Q. If it was a square stem, it would depend on how far it remained square?

A. Yes, sir.

Q. You believe the bottom planks are broken?

A. Yes, sir.

Q. If this is a mistake, it might qualify your opinion?

A. Yes, sir.

Q. Captain Andrews, was this libel filed against the Sabine (libel filed by witness) at the request or solicitation of the owner of the Sabine?

A. It was not, sir.

Q. Or at the desire?

A. No, sir; he never spoke to me of it.

766 Redirect examination by Mr. MARR:

Q. Captain Andrews, with regard to the way in which the Sabine was loaded, I desire you to state in what trim she was when you saw her in the vicinity of Baton Rouge.

A. I thought in very pretty trim.

Q. Do you know any means by which a boat could be made to move sideways with great force?

A. When there is a very strong current.

Q. But does her propelling power make her go rapidly sideways?

A. I never seen one go that way in my life.

Q. I wish to ask you if that wound in the Sabine could have been given by the motion of the Sabine?

A. I don't think it could be.

Q. Now, in order that wound should have been effected such as you see it, was it not necessary that the vessel that gave that wound should have been propelled in the direction of that wound?

A. Yes, sir.

Q. If the Sabine had been swinging in the current, upon the hypothesis that her head was in the eddy and her stern in the current, which way would the head of the Sabine have swung?

A. Her head would have swung up stream.

Q. And upon the hypothesis that the Richmond was running up the river and the Sabine had been swinging, under these circumstances, wouldn't that have carried the bow of the Sabine further off from the Richmond?

767 A. Well, if the Richmond had been going ahead, it would.

Re-examined by Commissioner COHEN, for the intervenors (Merchants' Mutual Insurance Company:)

Q. How many feet long is the wound?

A. I should judge between fifteen and twenty feet long; I mean the whole break, through the guards, fore and aft.

Recross-examined by Mr. BILLINGS:

Q. Mr. Marr put the question whether it was possible for a boat to have much of a sideward motion, or swing, and you answered, that if the current was strong she might have; wouldn't the sudden turn that the boat might make aid that sideward motion?

A. It would.

Q. If this boat had been caught in an eddy and she swung, in that case how would the wound be; wouldn't the wound be from aft forward?

A. It might be inflicted from aft forward, provided the Richmond had way on her; there is no other way she could be struck from aft forward.

JAMES PELL, being duly sworn, deposes and says:

I am pilot on the river; have been pilot about twenty years; generally from Louisville to New Orleans. About twenty years ago I was in the trade between the Tennessee River and New Orleans.

I was pilot on the Richmond in 1869 and 1870; she was not
768 a good steering boat; she was not regarded as a good steering boat. The trouble with her was she had very bad steering apparatus, and she was generally loaded so as not to steer well. I have been on her when she steered very well for a boat of her size; that is, when she was loaded trim; when she was not too much by the head or down in the middle. I know the navigation around Twelve Mile Point and in that neighborhood.

From your knowledge of the steering capacity of the Richmond, if you were going up, steering her, and had rounded Nine Mile Point, seeing a descending boat on the other side of the river, near Twelve

Mile Point, either above or below the point, and near the point or near that shore, how would you run the Richmond?

That is a good long ways, from Nine Mile Point to Twelve Mile Point. If I was coming up around Nine Mile Point, and saw a descending boat on Twelve Mile Point, I would steer my boat as I usually do; that is, I would make a crossing to the right-hand shore, under Twelve Mile Point. When I got sufficiently near, I would blow my whistle for the starboard side, unless I saw her hugging down under the point close to that shore, and I saw it was not practical for me to get get by. If I saw she was not going to give me that shore, I would straighten up and give her that side. I would have to be pretty well satisfied that she was close in to that shore, and was intending to run down that shore, before I would give it up. This is supposing
769 all the time that the down-stream boat has given me no signals.

At the present stage of water, going up with the Richmond, I do not think I would get within two hundred and fifty yards of the shore under Twelve Mile Point.

There are two places to begin the crossing, starting from Nine Mile Point. At a high stage of water we start out two or three hundred yards lower down than at the present stage. Sometimes, we are always, dependent on the river, kind of boat, etc. At the present stage, we run up probably half a mile above Nine Mile Point before we begin to cross. At the present stage, starting out at the upper crossing, above Nine Mile Point, I would hold the Richmond about 200 yards under Twelve Mile Point; that is, she would be heading about two hundred yards under the point. I would hold her in that direction until I got within two hundred and fifty to three hundred yards of the right hand shore going up, and then I would straighten her up and take the shape of the shore; I would not, at this stage of water, want to get any nearer that shore until I got far enough up to turn her up around the point.

After rounding Nine Mile Point it is open river up to Twelve Mile Point, and a boat can be seen in daylight; her lights can be seen at night if it is a good night. Crossing from the shore above Nine Mile Point, having made half the distance, if I see the lights of a descending boat, I can tell whether she is above Twelve Mile Point or below. If I was making the crossing, I could tell whether the descend-
770 ing boat was under the point or whether she was out in the middle of the river or in the bend. If I were to see a boat descending under that point, unless I saw that I could get my boat inside of her, and straighten up in my proper place, I would either straighten up and let the descending boat have the shore, or I would stop my boat and signal for that side.

With your knowledge of the Richmond, how near would you approach a descending boat coming down under Twelve Mile Point? If I had no signals from the descending boat, I would not get within nearer than half a mile of her before I stopped. I mean if there was no understanding between us, as to which side she was going to take.

There is no trouble about backing the Richmond; she backs at once; but when I was on her she did not back with much force. If the Richmond was going ten miles an hour, it would take from seven to ten back revolutions to give her sternway; if she was light she would back easier.

In navigating the Richmond, do you or not have to use the engines much to assist in steering? Yes; the reason of this is, that she is a large boat, and rather a bad steering boat.

During the time I was on the Richmond, she has run off from me frequently; do not remember that she ever went into the bank, or that any damage resulted.

771 Running ten miles an hour, how far would the Richmond go, drawing, say six feet, after stopping her engines and beginning to back, before she could get sternway?

I would suppose she would go all of two lengths, after beginning to back. I believe the length of the Richmond is 340 feet. When I was on the Richmond I was in the habit of having some one to assist me at the wheel; I considered that it was necessary.

Cross-examined by Mr. CAMPBELL, for claimants:

When I was on the Richmond and had a helmsman to assist me, I was rather in delicate health. I could not see the lights of a boat from Nine Mile Point above Twelve Mile Point, but after I got half way, say a mile and a half from Twelve Mile Point, there are certain positions in which I could see the lights of a boat above the point; there is some timber on the Twelve Mile Point; I could see a boat in high water better than I could now; I mean that I might possibly see her by her lights; I never noticed particularly, but think I could see if I was a mile and a half under Twelve Mile Point.

Since I was on the Richmond, under her old owners, I have heard that her present owners have made improvements in her steering apparatus.

If I was piloting a boat like the Richmond, and had left the Nine Mile Point to make my crossing to under Twelve Mile Point, and I had gone two-thirds of the way to Twelve Mile Point, and was, say one-

772 third of the width of the river from the shore under Twelve Mile Point, and saw a steamboat descending around the Twelve Mile Point, I would hold to the right, to the shore under the point; I would consider that my proper side.

NATHANIEL C. SELLY, being duly sworn, deposes and says:

I was on the Sabine at the time the collision with the Richmond occurred; I was captain of the Sabine; I was in bed at the time of the collision; I was awake; I had been in bed only fifteen minutes; I heard the Sabine blow two blasts of her whistle twice before the collision; I heard the slow bell of the Sabine ring, probably a minute after; I heard the last whistle of the Sabine—two blasts; then I heard the stopping bells; I then jumped up and put on my clothes; while I was putting on my clothes I heard the back bells, and knew that she was backing; my room was the last on the larboard side aft, in the ladies' cabin, and right over the larboard engine; the wires of the bells ran right under the floor of my room; I heard the bells as plain as I ever heard them; as soon as I got on my clothes I started forward; I do not think I had gotten more than half way of the cabin before I heard the crash and felt the shock of the collision; the bells were about two feet from the floor in my room; I then hurried for the hurricane roof as fast as I could run; when I got out, I found the Sabine with her head down stream, the Richmond with her head right into the starboard side forward of the cotton, with her stern apparently square out into the river; I

773 looked for the shore; it was the first thing I looked for; it was night, but I could see that we were near the left-hand shore coming down; I could not tell the distance.

I ran out forward as fast as I could, got on the cotton, when I discovered that a great deal of the Sabine's cotton had fallen over on the Richmond's bow. Her whole forecastle appeared to be covered with

the cotton; it fell off the starboard side and forecastle of the Sabine, and I suppose there were from seventy-five to one hundred bales.

The Richmond then apparently commenced backing out from the Sabine; as she backed out, I saw that the head of the Sabine was apparently cut half in two; I saw her capstan laying down, which had stood amidships of the Sabine. The Richmond seemed to back on one wheel, and she swung round with her head down stream and her stern up stream, alongside of the Sabine; the Richmond was between the Sabine and the right-hand shore going down. The Richmond then started off as if she was going to round out and go on up the river; I commenced hollooing to them to come back, that we were sinking very fast, and to gave my passengers; I could get no answer and saw no one on the roof of the Richmond; I continued to holloo three or four times, but could set no answer. I then told my pilot to blow his whistle five times, the signal of distress.

By this time the Richmond was a considerable distance out in the river nearly rounded, with her head up stream. They then an-
774 swered the signals and started to come back. They came back; came alongside of us. Before this time the Sabine had sunk.

As they came back, I saw the captain coming out of the texas putting on his coat, and I hollooed to him to have a stage put out from his boiler deck to the hurricane roof of the Sabine, so that I could pass my passengers on to his boat. He then run forward and hollooed to his mate, who was on the lower deck, to get his plank quick and bring it up on the boiler deck. The mate answered that he could not get at the plank until he moved the cotton.

I wanted him to get a line out to hold the Sabine fast to the shore, as I saw she was drifting down. He answered that the lines were all foul, under the cotton. Finally the Richmond's yawl was brought up and took the line of the Sabine ashore. Instead of making it fast to the Sabine, they made it fast to the Richmond. By this time it was nearly daylight; I was convinced that the Sabine was still drifting; the wind began to raise, when the line on the shore gave way, and both boats drifted out into the river by the force of the wind. They floated down the river about a mile below the place where the Sabine sunk. The Richmond then towed us into within three hundred yards of the shore, when the Sabine grounded.

Soon after the accident, before daylight, I sent two men with our yawl to New Orleans to get barges to save the cotton. The barges arrived about twelve o'clock that day.

775 It was the mate's watch on the Sabine when the collision occurred. He relieved me about half past one, when he came on the roof. This was probably about one hour before the collision. I sat and talked with him about half an hour, and when I went into the cabin it was about half past two.

I do not think I ever saw a prettier handling boat than the Sabine. She had big power for her tonnage; she could check herself quicker, backing, than any boat I ever saw; she was not loaded; I built her and I never saw her loaded. It was unprofitable to load her with cotton; you could never get enough cotton in her to load her. At the time of the collision her guards were five or six inches above the water.

I saw the Sabine built, extra strong, under Cooper's Old River Requirements; she was an extra staunch boat; she had been completed and running about sixty days before the collision.

Cross-examined by Mr. CAMPBELL, for the Richmond:

It was only twenty or twenty-five minutes after I got into the cabin from the roof before the collision.

About an hour after the collision I sent the yawl down to the city; I sent Mr. Levi, and I understood the second clerk, David O. Harkins, went with him; I don't know who rowed them; I have no recollection of proposing that they should go in the life-boat.

Q. Don't you remember that you did propose that they should go in the life-boat, and that they objected to this boat on account of the waves, saying that the yawl would be safer?

A. There never was such a remark made; there were no waves
776 at the time, and no wind blowing that amounted to anything. I am positive that Harkins made no such remark to me.

Q. What was the size of the nigger engine that runs the capstan?

A. I don't remember, but I think that it was five or six inches in diamiter; the nigger was a portion of it broken; the cogwheels were broken; the cylinder was not broken; I think that the bow of the Richmond struck the nigger engine and broke the cogwheels; I don't think I ever saw Harrison, the pilot, take a drink; I never saw Harrison under the effect of liquor that I knew of.

Q. Did you give your testimony in this case before the inspectors in New Orleans; and, if yea, is your evidence true as given before them?

A. If I gave any, it is true; but I don't think I gave any evidence before them.

Q. Did you swear to the protest of the steamboat Sabine, made before Clark and Ivy, in New Orleans; and is that protest true?

A. I think I did, and if I did, it is true to the best of my knowledge; of course a man looking of a night might be mistaken.

Re-examined:

Where the Sabine first went down immediately after the collision was but a short distance below Twelve Mile Point, and on the left-hand shore coming down; there were willows on the shore; I have seen the place in daylight; I have been there twice; I suppose it was not over fifty yards from the shore where she first sunk; she was still at the place; had drifted a little after the Richmond made fast to her when daylight came.

N. C. SELBY.

Sworn to and subscribed before me this 24th day of April, 1872.

K. LOEW, *U. S. C.*

776½ United States district court. In admiralty.

MRS. SARAH C. SHIRLEY ET ALS.
versus
STEAMBOATS RICHMOND AND SABINE, N. C. Green and N. S. Selby, masters. } No. 9822.

MERCHANTS' MUTUAL INSURANCE COMPANY
versus
THE SAME. } No. 9823.

Messrs. Campbell, Billing & Hughes, for libellants; Messrs. Marr & Egan, for Sabine; M. M. Cohen & Mr. A. Voorhees, for Merchants' Mutual Ins. Co.

777 *Testimony taken before Commissioner Loew on behalf of libellants.*

U. S. circuit court.

7057. Filed Nov. 3, '73.
(Signed) F. B. VINOT, *D'y Clk.*

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THE SAME. } No. 9823.

HANRY L. LANTS, sworn, says:

Question. What is your age?

Ans. Forty-two.

Question. What is your position?

Ans. Steward on the Richmond.

Question. Were you on board of her on the night of the 10th and morning of the 11th of February?

Ans. Yes, sir.

Question. At the time of the collision?

Ans. Yes, sir.

Question. Where were you?

Ans. I was in my room in the texas, on the larboard side.

778 Question. What is there connected with your room which will enable you to know when the bell rings?

Ans. The bell-rope.

Question. It runs through your room?

Ans. Against the bulkhead of my room, right by my head.

Question. When did this collision occur?

Ans. As near as I can judge it was about two o'clock on Sunday morning; on the morning of the 11th.

Question. What first attracted your attention?

Ans. The whistle, sir.

Question. The whistle of what boat?

Ans. The Richmond.

Question. How many times did it blow?

Ans. Once.

Question. And then what after that?

Ans. They rang the bell to stop her. I got up and went out to the back door and looked out on the river to see what was coming. I thought something was the matter, because when we ring the bell something is the matter

Question. Did you hear the bell to stop her ring distinctly?

Ans. Yes, sir, distinctly, up in my room.

Question. Did she make an effort to stop?

Ans. Yes, sir.

Question. What else?

Ans. Then we whistled again. The first time I did not hear her answer our whistle at all. We whistled again, and then as she was within, I

suppose, thirty or forty yards she whistled again. We blew one whistle, and she (the Sabine) blew two whistles, and it was about half a minute after that that she run into us. Then I heard the mate holloo to run her ashore, that she had knocked her stern off—the Richmond's stern.

Question. You heard the mate of what boat?

Ans. Of our boat, Mr. Coates.

Question. Holloo to the pilot?

Ans. Yes, sir.

Question. Did you hear the bell or gong sound to back the Richmond?

Ans. Yes, sir; I heard the gong strike; it was to back her, but whether they backed her or not I did not see.

Question. You did not see?

A. No, sir; I was on the texas side.

Question. You don't know whether she backed or not?

Ans. No, sir; I could not see until I seen the wheel backing.

Question. But you heard the bell?

Ans. I heard the gong strike to back her; I heard it strike twice.

Question. How long was that before the collision?

Ans. I don't suppose it was over half a minute.

779 By Mr. COHEN:

Question. How long do you expect to stay here?

Ans. I expect to go away this evening.

Cross examined by Mr. EGAN:

Question. How long have you been on the Richmond?

Ans. I shipped on her on the fifth day of January, in Cairo.

Question. In what capacity?

Ans. Steward.

Question. When did you go to bed on the night of the accident?

Ans. Between nine and ten.

Question. Did you go to sleep?

Ans. Yes, sir.

Question. When did the collision occur?

Ans. It occurred about two o'clock, as near as I can tell.

Question. Did you look at a watch?

Ans. I looked at the watch after I got out on the hull and heard the mate say the boat was sinking.

Question. What time was it then?

Ans. Two o'clock.

Question. You looked at your watch?

A. Yes, sir.

Question. The watch showed it to be two o'clock?

Ans. It did, as near as I can judge.

Question. Then the first intimation you had was when you woke up in your bed and heard the whistle?

Ans. Yes, sir; and heard the bell to stop her; then I got up and looked out and heard the Sabine was coming; I never heard the Sabine whistle at all.

Question. You did not hear the Sabine whistle?

Ans. No, sir. until we whistled the second time.

Question. You did not hear her whistle until after you whistled?

Ans. Not until after we whistled the second time.

Question. You were asleep previous to the first whistle?

Ans. I was asleep, but got woke by the bell-ropes running alongside of my head; every time they strike they strike the bulkhead and make a noise.

Question. Was it the bell ropes or the whistle that woke you?
Ans. The whistle is not on my side; the bell ropes are.
Question. Then the first intimation you had was by the bell-ropes?
Ans. I heard the whistle first, then the bell-ropes; as soon as we whistled I got awake, as I generally do; I must be very tired and sleepy if I do not hear the whistle at any time.
780 Question. What did the bell ring for?
Ans. To stop her.
Question. How do you know?
Ans. I always see when they ring the bell they stop; I never heard them ringing the bells yet that they did not stop the engines.
Question. Is there any other bell-ropes for stopping?
Ans. There is the stopping gong ahead; There is two rings different, one for striking to go forward, and another aft.
Question. Did you hear the gong?
Ans. Yes, sir.
Question. Did you hear it on this occasion?
Ans. Yes, sir.
Question. How many taps did you hear?
Ans. Two taps; also the fireman's gong, two taps.
Question. What is that the signal for?
Ans. To open the fire door.
Question. What is two taps?
Ans. To back her.
Question. What is the signal for slowing her?
Ans. They ring the slow bell.
Question. What is the slow bell?
Ans. One tap, I believe.
Question. Do you know it?
Ans. I don't know it; I think so.
Question. What is the bell to put on more steam?
Ans. I do not know on that boat, but I know what it ison a high pressure boat.
Question. Is that (the Richmond) a low pressure boat?
Ans. Yes, sir.
Question. How long have you been steamboating?
Ans. Twenty-two years.
Question. Where did you come out when you came out of your berth; where did you go to?
Ans. I came from Cairo on the Richmond.
Q. Where did you go to when you came out of your berth?
Ans. I ran down stairs after I told the carpenter that the boat was sinking; the mate said the boat was sinking as I went down stairs.
Question. Where did you go to after you got out of your berth?
Ans. I went outside of the door.
Question. What door did you go outside of?
Answer. The outside door of the texas.
Question. Where does it lead to?
Ans. On the hurricane roof.
Question. Where is that?
Ans. On the texas.
781 Question. How big is it?
Ans. I can't tell you how many rooms.
Question. How many, about?
Ans. There are six where the officers sleep, and eight where the boys, and four for the carpenter and mate.

Question. Is it a hundred feet long?
Ans. Well, I suppose it is over a hundred feet long.
Question. Has it a right and left side?
Ans. Yes, sir.
Question. On which side did you come out?
Ans. On the larboard side.
Question. How long after you heard the bell ropes was it before you got out?
Ans. I got out before the bell rang; as soon as they rang I happened to hear the whistle blow, and got up and put on my boots.
Question. What did you put on besides?
Ans. Nothing.
Question. How long did it take you to put your boots on?
Ans. I suppose half a minute.
Question. How long after that was it before you heard the bell ropes?
Ans. The bell ropes were ringing then when I was putting on my boots.
Question. Could you hear the gongs up there on the hurricane deck, that is, in your room?
Ans. Yes, sir; the doors were open.
Question. Were the doors open?
Ans. Yes, sir.
Question. Who opened them?
Ans. Myself.
Question. Did you open it before or after you put your boots on?
Ans. After I put them on.
Question. Then you did not go out until you put your boots on?
Ans. No, sir.
Question. Then you went out?
Ans. Yes, sir; I stayed there until she whistled the second time; then the Sabine whistled two whistles.
Question. When did the bell ropes ring?
Ans. Before she struck us.
Question. How long after the second whistle?
Ans. I suppose about half a minute.
Question. After the second whistle?
Ans. Yes, sir; about half a minute.
782 Question. How long after the second whistle was it before the bell rang?
Ans. She had stopped long before we blew the second whistle.

By Mr. BILLINGS:

Question. And commenced backing?
Ans. Well, they rang for to back; I did not see the wheel.

By Mr. EGAN:

Question. Did you run into the Sabine?
Ans. She run into us.
Question. Who told you that?
Ans. I saw it.
Question. Was the Richmond going ahead?
Ans. The Richmond, I think, was backing.
Question. Was she not going ahead?
Ans. No, sir; she stopped her bells.
Question. How do you know she was stopped?
Ans. I did not hear any noise.

Question. Could you hear noise if she was stopped?
Ans. Yes, sir.
Question. Were you listening for the wheel?
Ans. Yes, sir.
Question. Was there any sound?
Ans. There was very little sound.
Question. Was the night clear?
Ans. It was a nice night; a good night to run her.
Question. How was the Richmond headed when you came out?
Ans. Headed for the shore.
Question. Which shore?
Ans. The larboard shore on the bend; she was just below the point.
Question. Which shore had she been running up?
Ans. The right hand shore.
Question The right hand geographically, or the right hand proceeding?
Ans. The right hand side going up.

By Mr. BILLINGS:

Question. You mean the right hand side going up?
Ans. Yes, sir.

783 By Mr. EGAN:

Question. How close was she going on shore?
Ans. About forty or fifty yards.
Question. Could you see the shore?
Ans. Yes, sir.
Question. What object did you see upon it?
Ans. I could see the bank.
Question. What object did you see upon it?
Ans. A house.
Question. What sort of a house?
Ans. A frame house.
Question. Two stories or one?
Ans. Two stories, I suppose.

Mr. BILLINGS:

The counsel for the Richmond here admit that the proctors for the libellants have a right to make the witness their own on points not mentioned in his direct examination, but object to the course of examination of the proctors for libellants on this point, being in the nature of a cross examination.

By Mr. EGAN, continued:

Question. When you first came out of the texas what was the distance from the Richmond to the Sabine?
Ans. I suppose when I first came out she was half a mile.
Question. What distance is half a mile; how many yards?
Ans. I do not know how many yards.
Question. Do you know how many yards there is in a mile?
Ans. No, sir.
Question. What would constitute half a mile?
Ans. Well, I suppose, as far as I can judge, from here down to the levee.
Question. It is about four squares?
Ans. More than that; about to the steamboat landing.
Question. How many squares?

Ans. I don't know; that was about the distance she was off when I got up and looked out.

Question. Did you have any particular business in getting up?

Ans. No, sir; I had no particular business; I always must get up when the boat whistles.

Question. How long after you heard the whistles was it before you got up?

Ans. She hadn't hardly done her whistling before I got up.

784 Question. How long was the whistling continued?

Ans. Well, it was a good long whistle for a boat; it was, in fact, longer than the ordinary whistle; she whistled for a smart while; she gave one long whistle.

Question. Who was at the whistle of the Richmond?

Ans. I believe Mr. Charles Duffey.

Question. Has this texas got a hall?

Ans. Yes, sir.

By Mr. BILLINGS:

Question. What is that?

Ans. The room where they wash.

Question. Does your room open on the hall?

Ans. Yes, sir; in one small gangway; then there is the hall forward of that.

Question. And opens on the gangway that runs into the hall?

Ans. Yes, sir, and on the hurricane roof.

Question. You first went into the hall?

Ans. Yes, sir; I open from the back door of the roof.

Question. Did you go into the hall?

Ans. I went into the hall when the mate said she knocked her stern off.

Question. Where did you go then?

Ans. I went to tell the carpenter that the boat was sinking.

Question. What was the carpenter doing in the hall?

Ans. He had his clothes off; he had just got out of bed.

Question. Does it open into the passageway or into the hall?

Ans. It opens into the passage-way into the hall.

Question. Was he washing himself?

Ans. No, sir; he was not; Mr. Wilson was standing in the hall door.

Question. What do you call him?

Ans. Mr. Jack.

Question. He was standing in the hall?

Ans. Yes, sir; he just got up; I did not take notice of what he was doing.

Question. Did you carry a watch?

Ans. Yes, sir.

Question. Where did you have it on that night?

Ans. I had it in my drawers.

Question. When did you look at the watch?

Ans. After I came out in the hall.

Question. How did you get into the hall?

Ans. I opened the door and went in; in the first place I went out and was on the hurricane roof.

Question. What did you see there?

Ans. I seen the Sabine coming into the Richmond.

785 Question. Could you see her name?

Ans. No, sir; until after we struck.

By Mr. BILLINGS:

Question. You do not doubt it was the Sabine?

Ans. I knew it was the Sabine running into the Richmond.

Question. How long did you stay there?

Ans. Two or three minutes.

Question. Then went back into your room?

Ans. Yes, sir; and then down stairs.

Question. What part of down stairs did you go to?

Ans. All over the boat; that is, the up-stairs part.

Question. Did the collision take place before you got into the hall or afterwards?

Ans. It took place before I got into the hall.

Question. Where were you when the collision took place?

Ans. I was standing in my room, running out on the hurricane roof.

Question. Was it there that you told the mate that they had broken your stem?

Ans. Yes, sir; and he said to run ashore.

Question. Did the Richmond strike the Sabine with her stem?

Ans. No, sir; the Sabine struck her.

Question. With what?

Ans. She run against her stem and knocked it off.

Question. How did she strike it off?

Ans. She was a kind of quartering.

Question. Where did she strike?

Ans. Right about the knee.

Question. Where is that?

Ans. Right at the jack-stem.

Question. What effect had it?

Ans. It broke part of the knee off, and broke part of the gallows frame.

Question. Is that all?

Ans. That is all.

Question. What was the effect of it on the Sabine?

Ans. She sunk.

Question. Is that all?

Ans. That's all I know.

Question. How fast was the Richmond going at the time?

Ans. Well, I think her headway was checked when she struck the Sabine, because I heard the gong ringing to back her; I think her headway was pretty well checked when she struck her.

786 Question. In what distance could she be checked?

Ans. Well, she could go back in five or six revolutions.

Question. What distance, I asked you?

Ans. I suppose about forty or fifty feet; I think she would go back on that.

Question. How long is that? How long is the Richmond?

Ans. Three hundred and forty feet.

Question. How fast was she running?

Ans. Making about ten miles an hour.

Question. Do you think that a boat can be stopped in forty or fifty feet?

Ans. I think she can.

Question. Have you any experience in backing boats?

Ans. No, sir.

Question. Do you know in what distance a boat can be stopped?

Ans. I know that some boats can be checked a great deal easier than

others; but I cannot tell about that boat, because I have not been long enough on her.

Examined by Mr. COHEN:

Question. About the effect of the collision; do you know whether or not any cotton was thrown from the Sabine?

Ans. Yes, sir; there was some cotton came off the Sabine when she struck us, but how much I can not state; I know the forecastle was full.

Question. Was it a small or large quantity?

Ans. Well, a large quantity. There may be forty or fifty bales; I cannot say how many.

Question. What was the management or navigation of the Sabine on the occasion of this collision; whether it was proper or improper?

Ans. I do not think it was proper; I do not think any boat coming down stream had any business in the bend.

Question. Is there any reason you can give for your opinion?

Ans. We only blew one whistle, and just about half a minute again, she blew her whistle for two whistles and came into us.

Question. She did not answer the first whistle?

Ans. No, sir.

Question. Would you have heard it if it had been given?

Ans. Well, I was standing in my door and I think I could have heard it if it was given.

Question. If there was any fault or negligence on the part of
787 the Sabine, in what did it consist?

Ans. I do not think she had any right in the bend under the point; I should judge so for a boat coming down stream; I was steamboating a good many years and never saw a boat coming down that way.

Question. Have you any other reason for saying that the Sabine was in fault on that occasion?

Ans. No, sir; I have no other.

JOSEPH TRAVIS, sworn for libellant, says:

Examined by Mr. COHEN:

Question. Were you on the Richmond?

Ans. Yes, sir.

Question. Did the collision happen by any fault or negligence of anybody?

Ans. I don't know, sir.

Question. What do you know about it?

Ans. I know we blew one whistle and did not hear them answer it.

Question. Who answer it; the Sabine?

Ans. Yes, sir; shortly after we blew one whistle, and after waiting for an answer, I heard the bell ring to stop her.

Question. What else did you hear?

Ans. Then when the gong run to back her, the bell was rung for us to open the flues and stop the dampers, and after that I walked out on the larboard guard and had not been out there any time before they struck together.

Question. Is that all you know about it?

Ans. Yes, sir.

Examined by Mr. BILLINGS:

Question. Where were you on the night of the 10th and morning of the 11th of February?

Ans. I was on the watch.
Question. On what boat?
Ans. On the Richmond.
Question. Just state whether the Richmond had stopped and was backing.
Ans. Yes, sir; blew her whistle and then rung her stopping bell; after that she rung her gong and commenced backing
Question. Had she commenced backing when the collision happened? How did the collision happen, as it seemed to you?
Ans. She seemed to be coming head on.
Question. The Sabine?
Ans. Yes, sir.
Question. She seemed to be coming head on?
Ans. Yes, sir.
Question. How did she strike?
Ans. On the larboard side.
788 Question. Whereabouts?
Ans. Right about the knee and knocked the knee down.
Question. Then, the first thing you heard was what?
Ans. The whistle.
Question. Of the Richmond?
Ans. Yes, sir.
Question. Which blew how many times?
Ans. Once.
Question. Then what happened?
Ans. I heard no answer from the Sabine.
Question. You were where you would have heard it, if there had been an answer?
Ans. Yes, sir.
Question. Where were you?
Ans. In before the fire doors, on the watch.
Question. Then, when you heard no answer, what then happened?
Ans. I heard them ringing the stopping bell, and after she rung her stopping bell she rung her gong to back her; then she rung the bell to stop the dampers and open the flues; then I walked out on the larboard guard, and as I did she came into us.

Cross-examined by Mr. EGAN:

Question. In what capacity were you employed on the Richmond?
Ans. Fireman.
Question. Where were you shipped?
Ans. At Cairo.
Question. How long have you been on her?
Ans. I cannot tell.
Question. Twenty or thirty days?
Ans. Well, as near as I can come at it, about a month and five days under wages.
Question. How many blasts did the Richmond blow altogether?
Ans. Well, I told you; the time she struck, after she blowed her first whistle, I never paid any attention, because I was scared.
Question. Did she blow any more than one whistle?
Ans. She blowed one.
Question. Were you in a position to have heard it, if she answered?
Ans. I was.
Question. How many whistles did the Sabine blow?
Ans. I did not hear her blow until she came into us; I did not know then whether it was the distressing whistle or not.

Question. What time did you come on the watch that night?
Ans. Twelve o'clock.
789 Question. When did the collision occur?
Ans. I cannot tell you; I kept no account of the night.
Question. How long after you came on the watch?
Ans. I cannot tell you.
Question. How long was your watch to be?
Ans. Six hours.
Question. Has anybody spoken to you in regard to your testimony in this case?
Ans. No, sir; but the striker came after me and told me I was to be a witness.
Question. What striker?
Ans. Edd.
Question. Did he tell you what he wanted you to swear to?
Ans. No, sir; he said they wanted me as a witness about that boat.
Question. Did you ask him about what was wanted?
Ans. No, sir.
Question. Were you paid by the Richmond?
Ans. Paid how?
Question. For working.
Ans. Yes, sir.
Question. Were you paid yesterday?
Ans. No, sir.
Question. Where did you get your pay?
Ans. From the Richmond?
Question. Yes.
Ans. I got it last Monday.
Question. Were you not present in an office on Camp street yesterday?
Ans. I was not.
Question. Have you filed any libel or claim for wages?
Ans. Well, I am under wages now.
Question. Who is paying you?
Ans. The engineer on the Charles B.
Question. Have they paid you anything to come and give your testimony?
Ans. They did not.
Question. Did they (the Richmond) offer you anything?
Ans. They did not.
Question. How long before the Richmond struck was it that the backing bell rung?
Ans. How long before she struck?
Question. Yes.
Ans. Well, she made about six revolutions before she struck.
Question. After the backing bell rung?
Ans. Yes, sir.
Question. How far was the Sabine from her when the backing bells rung?
Ans. About as near as I can come to it she was about four times the length of the Richmond.
790 Question. How far was the Richmond from the shore?
Ans. About two lengths and a half of herself, as near as I can come to it.
Question. Which way was she heading?
Ans. Into the shore.
Question. Which shore?

Ans. The starboard shore.
Question. Which way was the Sabine heading?
Ans. She was coming right into us.
Question. Were you coming into her (the Richmond was)?
Ans. No, sir; she could not be; she was backing.
Question. Was she backing?
Ans. Yes, sir.
Question. How long was she backing?
Ans. Six revolutions.
Question. Was that sufficient to stop her?
Ans. Well, the stopping bell was to stop her.
Question. Was it sufficient to back her?
Ans. It could not be sufficient to stop her and backing too.
Question. Then the gong had been ringing to back her?
Ans. To stop her and back her.
Question. She made about six revolutions?
Ans. Yes, sir.
Question. How fast was she going?
Ans. I cannot tell you how fast.
Question. Would these six revolutions backward be sufficient to stop the headway of the Richmond?
Ans. Yes, sir; it would check the headway of any boat.
Question. But would it stop her?
Ans. Well, I guess it would.
Question. You think it would?
Ans. I think so; I do not know whether I am mistaken or not.
Question. Stop her still?
Ans. They rang the bell to stop her, and then rang the gong to back her.
Question. Then to reverse the engines?
Ans. I do not know anything about the reversing.
Question. How long would it take to reverse the engines after the bells rung for that purpose?
Ans. I do not know anything about the reversing.
Question. In what capacity were you shipped on the Richmond?
Ans. Fireman.
Question. You are a colored man?
Ans. I profess to be pretty brown.
791 Question. You do not know anything about the science of machinery?
Ans. Nothing but rub them off and keep them bright; that is all I profess to know.
Question. How fast was the Richmond going when she struck the Sabine? She was going ahead?
Ans. No, sir.
Question. Wasn't going ahead at all?
Ans. No, sir; because they had done ringing the bell to stop her.
Question. But would that stop her?
Ans. Yes, sir; of course; when you ring the bell on a boat to turn off steam, she is bound to stop.
Question. How long would it take to stop a boat after that?
Ans I do not know.
Question. Would it take ten or fifteen minutes?
Ans. I don't know.
Question. Would it not take some time?
Ans. I don't know.

Question. Do you know what collision means?
Ans. Yes, sir.
Question. Do you know what collision means?
Answer. Yes, sir.
Question. What does it mean?
Ans. Well, you asked me how long it would take to stop and back after the bell rung.
Question. But you say she was going ahead?
Ans. She was not; she was backing.
Question. Do you know she was not?
Ans. Yes; she was turning the wheel backwards.
Question. Would that prevent her from going ahead?
Ans. It is bound to do that.
Question. If the wheel was turned ahead, and she was backing, would not that stopher?
Ans. She would have to stop if the bell rung.
Question. Would that have the effect of stopping her?
Ans. Well, she made about six revolutions.
Question. But would it have the effect of stopping her?
Ans. I don't know.
Question. Had you been looking out before the collision?
Ans. Just as I walked on the guard she struck.
Question. You did not see the boats strike?
No, sir; not until after they struck.
Question. How long, then, had you thrown open the fire-doors?
Ans. I cannot tell.
792 Question. How long did it take you to open the fire-doors?
Ans. I did not open the fire-doors.
Question. What did you do?
Ans. I shut up the dampers and took off the flue caps.
Question. How long did that take you?
Ans. I just closed them and walked out on the guards, and then they came together.

By Mr. BILLINGS:

Question. Which way was the Richmond moving when the collision took place; backwards or forwards?
Ans. Backwards.

By Mr. EGAN:

Question. Do you swear positively that the Richmond was not going ahead?
Ans. I do.
Question. How do you know she was not going ahead?
Ans. I know she could not be going ahead backing.
Question. Would the backing of the wheels make her go back when she was running ahead?
Ans. If they had run long enough.
Question. How long did they run?
Ans. I did not have a watch.
Question. How many revolutions would it have taken to stop her after going ahead?
Ans. I could not tell you.

By Mr. BILLINGS:

Question. She made a stop before the gong rang to back?
Ans. Yes, sir.

RICHARD JONES, sworn for the libellant, says:

Examined by Mr. BILLINGS:

Question. Where were you on the night of the collision—the night of the tenth or morning of the eleventh?

Ans. I was on the Richmond.

Question. In what capacity?

Ans. I was on the guard when she made the collision.

Question. State what you were doing.

Ans. I was firing on the boat and was then on the fire-box.

793 Question. You stood on the guards?

Ans. Yes, sir.

Question. And the first thing you heard?

Ans. Was the Richmond blowing.

Question. Blowing one whistle or more?

Ans. One to my knowing; she blew more, but one at a time; we were firing when she was blowing. I spoke to one of the firemen and said to him what is the stop for.

Question. You stated that you heard the whistle of the Richmond blow.

Ans. Yes, sir.

Question. And after that, what was the first thing you noticed?

Ans. Well, after that, the bell to stop her.

Question. And then, after that, you noticed what—the gong?

Ans. The gong.

Question. What was that for?

Ans. To back her.

Question. And she commenced backing?

Ans. Yes, sir; she was backing.

Question. How many revolutions had she made backward?

Ans. I cannot give you an idea of how many, but made enough to stop her headway.

Question. She was going backward?

Ans. Yes, sir.

Question. Then the collision took place?

Ans. Then the collision took place.

Cross-examined by Mr. EGAN:

Question. In what capacity were you employed on the boat?

Ans. As fireman.

Question. Who were you employed by?

Answer. I was employed by Mr. Wilson's striker, James Berry.

Question. Where were you employed as fireman?

Ans. Here.

Question. In New Orleans?

Ans. Yes, sir.

Question. You are a colored man?

Ans. Yes, sir.

Question. When did you come on the watch on the night of the collision?

Ans. At twelve o'clock.

Question. When did the collision occur?

Ans. I do not know what time of the night it was. I came on the watch at the elevator and had not been out long.

Question. What was your watch; from what hours?

Ans. From twelve to six.

794 Question. What were you doing when you came on the watch?

Ans. When I came on the watch I went out and sat on the fire-box until the bell rang to stop her.

Question. You were sitting on the foot box?

Ans. At the elevator I was.

Question. Where were you at the time the boat blew the first whistle?

Ans. When she blew her whistle I was on the guards.

Question. What were you doing on the guards?

Ans. I was standing taking the air.

Question. What part of the guards?

Ans. Right close to the box.

Question. What box?

Ans. The fire-box.

Question. On which side?

Ans. On the starboard side.

Question. What could you see there?

Ans. I could not see anything. I was only looking in the river then.

Question. How many whistles did your boat blow?

Ans. One to my knowing, but there was more blowed.

Question. How do you know there were others blew?

Ans. Because some other men said so.

Question. You paid no attention?

Ans. Not until the last one. I paid attention to it.

Question. You did not hear any other?

Ans. No, sir; after I paid attention to the last. I only heard the bell ring.

Question. How long after that was the bell rung?

Ans. I don't know.

Question. What was the bell for?

Ans. To stop her.

Question. What occurred next?

Ans. The gong rung.

Question. What was that for?

Ans. To back her.

Question. How many bells were rung?

Ans. One bell to stop her.

Question. How many gongs were then rung?

Ans. I took notice to one that was rung.

Question. What was that for?

Ans. To back her.

Question. How long after the bell was rung was the gong rung?

Ans. In a few seconds; as quick as they could stop and reverse the engines to answer the bell, she stopped.

Question. What was then done?

Ans. The collision was made.

Question. How long was it from the time of the ringing of
795 the bell to the time of the collision?

Ans. Just enough to stop the Richmond's headway.

Question. How long was that?

Ans. I could not give any idea.

Question. How long does it take to stop the Richmond's headway?

Ans. About the second revolution.

Question. How long would it take to go backwards?

Ans. About the second revolution will put her back.

Question. How fast was she running?

Ans. Well, I cannot tell, but she was going up the river tolerably clear; she is not a fast boat.

Question. How many revolutions does it take to stop the Richmond?
Ans. Two.
Question. How do you know?
Ans. Because I was nine months on her before this, and I know how many stops her.
Question. Two stops her; that boat?
Ans. Yes, sir; two, if she is stopped right.
Question. You could not state whether she was backed or not?
Ans. I was standing on the guard.
Question. Do you know whether she was going ahead or backwards when on the guard?
Ans. Well, she was steering towards the shore—towards the starboard shore—and she was struck on the larboard.
Question. Was she heading right into the shore?
Ans. Well, when you are on the fire-box you could not tell without stepping out and looking.
Question. You were on the fire-box?
Ans. On the fire-box, next to the guard.
Question. Where were you when she struck?
Ans. On the fire-box.
Question. You did not see the striking?
Ans. No, sir.
Question. You did not see the Sabine before the collision occurred?
Ans. No, sir.
Question. Do you know how many whistles were blew before that?
Ans. No, sir; I was at the fire-box. I did not hear the Sabine whistle at all.
Question. And could not have heard it?
Ans. No, sir; if I could have heard it I did not, because I was paying no attention to it.
796 Question. What kind of a night was it?
Ans. It was a dark night; tolerably dark, and raining a little.
Question. And foggy?
Ans. Well, very little I think. I do not think it was foggy. I did not pay any attention after the collision.
Question. Was it raining at the time of the collision?
Ans. Sprinkling.
Question. Was the wind blowing very hard?
Ans. I do not think it was.
Question. Which direction did it come from?
Ans. I can't tell you.
Question. You say at the time of the collision the Richmond was headed with the starboard shore?
Ans. Yes, sir; she was, for I was on the starboard guard, and she was steering towards the starboard shore; she was struck on the larboard.
Question. Could you see the shore?
Ans. I did not notice. I did not look for it.
Question. The starboard shore is on this side of the river?
Ans. This side going up.
Question. And you were looking at the opposite side of the river?
Ans. I was looking towards the starboard; looking about there as a man would who thought he done his duty and was looking about him.
Question. Within what distance could the Richmond be stopped?
Ans. Well, twice the length of her.

Question. How do you know she would stop in twice the length of her?

Ans. Because I saw her back, and she stopped herself in twice the length of her.

Question. You have seen her?

Ans. Yes, sir.

Question. Did you ever measure it?

Ans. No, sir.

Question. How long is she?

Ans. I think she is three hundred and some odd feet long.

Question. How many revolutions of the wheel would it take to make her go twice the length of her backwards?

Ans. I could not tell you?

Question. Do you swear positive that she was stopped, or is it your impression?

Ans. It is my impression that she was stopped.

Question. You would not swear to it?

Ans. No, sir; I will swear only to what I know.

797 Question. Have you been spoken to about giving your testimony in this case?

Ans. I have not.

Question. How did you get here this morning?

Ans. I was working on the Boardman, and they came for me.

Question. Who came after you?

Ans. One of the firemen on the Richmond.

Question. Who brought you here?

Ans. I came with this colored man out there, Joseph Travis.

Question. Who told you to swear anything to-day?

Ans. Nobody.

Question. Were you paid off by the Richmond?

Ans. Yes, sir, when she came in.

Question. Were you in an office on Camp street yesterday?

Ans. No, sir; I did not, but have two days coming to me, and they cashed that.

Question. The others got due bills?

Ans. I do not know. I had no persons telling me to swear to anything.

Question. How long does it take the Richmond to reverse her engines after stopping her?

Ans. It did not take hardly a second. I do not know, because I never handled machinery.

Question. How long was it when you went out on the starboard side until the collision occurred?

Ans. Soon after.

Mr. M. M. Cohen adopts the testimony of the above witness to be used in his case.

FRANCIS M. CAYTON, sworn for the claimants and cross-libellants, says:

Examined by Mr. CAMPBELL:

Question. Where do you reside?

Ans. In St. Louis.

Question. What is your business?

Ans. Piloting and steamboating; commanding steamboats.

Question. How long have you been a pilot on the river?

Ans. About eighteen years.

Question. Between what points?

Ans. Between St. Louis and New Orleans.

Question. Have you ever acted as master of any boat?

Ans. I have frequently.

Question. What character of boats; large or small boats?

Ans. Boats from seven to fifteen hundred tons.

798 Question. Were you the pilot on the Richmond on the tenth and eleventh February?

Ans. I was.

Question. At what time did the Richmond leave the wharf at New Orleans that day?

Ans. About half past five o'clock on the tenth.

Question. Where did you go then?

Ans. To the elevator.

Question. To the upper part of the city?

Ans. Yes, sir; the Fourth district.

Question. How long did you remain there?

Ans. I suppose it was twenty minutes after one o'clock, as near as I can guess. I lay down a short time after one o'clock.

Question. Did you go to bed immediately after she left?

Ans. Before she left.

Question. State distinctly all you know about this collision.

Ans. After I had laid down and, I suppose, had slept a few minutes it commenced raining very hard, and it roused me up. I do not know what length of time altogether I had been asleep, but I know I had been asleep; before I went asleep it had stopped raining, then I heard the blast of the whistle and no answer given to it.

Question. Blasts of which whistle?

Ans. The Richmond's whistle.

Question. There was no answer?

Ans. No, sir; and in a few minutes there was another long single blast from the Richmond's whistle; then I heard two in reply from some other steamboat; I was still in bed; perhaps a minute and a half, as I stated above, before there was another single blast from the Richmond, and about the same time two from the other steamboat. When I heard the signals crossed I apprehended some danger of a collision; I knew there was something wrong, because the signals had been crossed; then I got up and went out on the larboard side of the texas forward, and stood in the door forward of the chimney, and saw the boats very close together, so close that I could not see the bow of the Sabine; if I did I do not know, for they were just about colliding at the time; I seen the positions of the boats, however, and, as near as I could witness, they were coming together nearly at right angles, with the bows very close together; we backed her from the boat that proved to be the Sabine; a few seconds after the concussion or collision we backed out into

799 the stream probably three hundred yards—I could not say the exact distance, being at night; however, before we did that I could see that we were about a hundred yards from the shore on the right-hand side; I do not know exactly the point of accident, but I could see the shore which was under Twelve-mile Point or a short distance under it; we backed away, as I said before, about three hundred yards, when the signal of distress was given by the Sabine, and we then went back alongside of her. I could not see what boat it was then, but I had seen previous to that three letters of her name on the starboard side.

Question. When did you see these three letters?

Ans. When I was standing in the texas door on the larboard side; about the time of the collision; it may have been before or after, but I remember distinctly to have seen the three letters on the starboard side of the Sabine, aft.

Question. Whereabouts is her name written?

Ans. On the bulkhead near her engines, on the outside.

Question. About how far from the stern?

Ans. Probably six or eight feet; that would be about the commencement of it; I did not observe.

Question. When you first looked out of the texas door which side did you look out at?

Ans. The larboard side.

Question. Of the Richmond?

Ans. Yes, sir.

Question. How far back is your room in the texas, in which you were at that time?

Ans. I should judge probably thirty feet from the front of the texas.

Question. How far out of the texas door did you incline your body to look?

Ans. All of my body was out; in fact I was hanging on with my hand to the side of the door.

Question. From your position you say you could then see the right bank of the river going up?

Ans. Yes, sir.

Question. How was the Richmond headed at that time?

Ans. Nearly straight for the shore.

Question. State whether or not she was going ahead at that time, or was her speed checked, or had she stern *away*?

Ans. I have no knowledge; the night was dark, and looking out of the texas and into the dark I could not see, but I will say positively that the boat must have been stopped, because she backed away from her a few seconds after the collision.

800 Question. The Richmond's headway was stopped?

Ans. Yes, sir; it must have been stopped.

Question. After the collision took place which way did the Sabine go?

Ans. She went into the shore; went quartering into the shore.

Question. Will you explain the exact position of the boats relative to the right bank of the river, going up, at the time they went together—the position in which they struck one another? Does that diagram show?

(Witness is presented with the diagram, marked Exhibit A, and says:)

Ans. That is their positions.

Question. Examine it and state who made it.

Ans. I made it myself, and that shows the position of the boats as near as I seen them, not being drawn to a scale, however. I could not see the right bank past the stern of the Sabine; that is not drawn by a scale, but that is the position of the boats.

Question. That is the position of the boats on that draught that you hold in your hand, marked Exhibit A, at the time of the collision, and is as correct as you could draw it without a scale?

Ans. Yes, sir.

Question. Whereabouts did the Sabine strike the Richmond?

Ans. I could not see where she struck her; I seen where the Richmond had been damaged by the collision.

Question. Where was that?

Ans. The plank stove in about eight feet aft of the stem to the larboard knee; the head of the jackstaff was broken up, caused by the collision.

Question. How far was the Richmond at that time from the shore?

Ans. About one hundred yards; about her length; she is a little over that.

Question. What is the proper and usual position for an ascending boat at that point there?

Ans. Ascending steamboats generally run that point pretty close, especially that particular point where the collision occurred.

Question. Runs close to the shore?

Ans. Yes, sir.

Question. What is the usual course of descending boats as they round that point coming down?

Ans. In the middle of the river or in the bend.

Question. That is the side the Sabine came down, or should have came?

Ans. Yes, sir.

801 Question. Did you hear the gongs ring on the Richmond?

Ans. I only heard one engine bell.

Question. What time was that?

Ans. It was between the first and second signals given by the Richmond and by the Sabine.

Question. How long after the first signal was it until you heard the engine bell ring?

Ans. Probably a few seconds.

Question. How long from the first to the second signal of the Richmond given by the Sabine?

Ans. I could not state; probably a minute or a minute and a half.

Question. How long after the Richmond gave her first signal to the Sabine before the Sabine replied?

Ans. It was immediately. I do not know what time elapsed, because I did not pay much attention.

Question. Then how long after the first signal of the Sabine was it before the Richmond blew her second signal?

Ans. I do not know. It could not have been over a minute and a half.

Question. How much?

Ans. Probably two minutes.

Question. How long after the engine bell rang on the Richmond that you have spoken of before the boats came together?

Ans. Well, I should think that the time was about the same, or probably a little longer; probably two minutes.

Question. From the first time that you heard the signal?

Ans. Well, there was a little time; it was not promptly answered. They, the Sabine, answered after with two signals, and I noticed our bell rang immediately after the signal, but I do not know what time elapsed until the collision.

Question. How long before the collision that the second signal of the Richmond blew?

Ans. A few seconds.

Question. Was that replied to by the Sabine?

Ans. They were blowing about the same time, but I think ours blew first.

Question. That was the second signal of the Richmond?

Ans. Yes, sir.

Question. Did you notice the stem of the Richmond?

Ans. I did.

Question. Describe how the stem of the Richmond was after that accident?

Ans. The top part of the stem was pushed forward probably four or five inches and slightly to starboard, and along down to the water it was started, but I could not see how much below it.

802 Question. How could that stem have been affected in that way?

Ans. I don't know, unless it was by the collision.

Question. Describe how the collision could have affected it in that way?

Ans. The boats when they collided, I suppose. It brought the stem of the Sabine in closer to our larboard side, near the nosen or stem, and might have carried it off in that way, something catching it from the Sabine. That is the only way I can account for it.

Question. As the Sabine passed the Richmond?

Ans. I suppose she must have carried it with her.

Question. Then, as I understand you, the Sabine passed into the bank, and the Richmond, just after the collision, backing from the bank?

Ans. I think so.

Question. Did you notice how the Sabine was loaded?

Ans. No, sir; it was dark on the water and I could not see how the boat was loaded.

Question. State whether the Richmond was in her proper place in the river when the collision took place?

Ans. From my knowledge of the river, I think the Richmond, as the ascending boat, was in her proper position.

Question. What is the usual way of running up the river from Carrollton?

Ans. Well, we turn what is called Nine Mile Point, not close, because it is flat, and then close in to the bluff shore.

Question. On which side?

Ans. The left bank going up, and run up to Mr. Kennedy's house. That is the point boats generally go to. We usually go that way and hold over until we get to Twelve Mile Point.

Question. Have you had any conversation with either one of the pilots of the Sabine since this accident occurred?

Ans. Yes, sir; but nothing particularly in relation to the collision.

Question. Did it relate to anything that transpired between the pilots at that time?

Ans. Nothing except he (Ensminger) remained in the pilot-house. They changed the watches at Red Church, and his partner asked him to stay in the pilot house, saying that they would be in the city pretty soon, and there was no use in going to bed.

Question. Did he stay in the pilot house?

Ans. Yes, sir.

Question. Did that pilot speak to you of the course that the Sabine should have pursued on that night?

A. No, sir.

803 Question. Did he say anything about the boat's stopping and laying up?

Ans. He said he was only sorry now that he had not laid up.

Question. Did he say anything about the captain intending to lay her up?

Ans. I believe that he did, but I am not positive as to that. I have heard him give testimony, but I am not going to state anything about that.

Question. How far was the Sabine from the Richmond when you first discovered her?

Ans. They were nearly together. As I said before, I could hardly see the bow of the Sabine.

Question. Is the Richmond a wide or narrow boat?

Ans. A wide boat.

Question. How far off would the Sabine have to be to enable you, from your position, to have seen her bow?

Ans. I could not tell anything about that. The hurricane deck of the Richmond extends over the guard so far that I could not tell the distance between the boats to enable me to see her.

Question. Do you know whether the Sabine's jackstaff was knocked down?

Ans. No, sir; I did not see any jackstaff upon her after the collision, and when we came closer I did not see it.

Question. Do you know whether the Richmond's jackstaff was knocked down?

Ans. No, sir; the gallows frame was injured some by the cotton falling on it.

Question. From where?

Ans. From the Sabine.

Question. Did any cotton fall from the Sabine to the Richmond?

Ans. Yes, sir.

Question. Where was that?

Ans. Between the derrick and the jackstaff. I do not know any particular spot.

Question. Did any of the cotton fall between the two boats?

Ans. Yes, sir; a good deal of it.

Question. Which direction were these two steamboats headed immediately after the collision, when the Sabine, as you say, swung alongside of the Richmond?

Ans. I think they were headed as near for the shore as possible. After the collision they were headed straighter for the shore than about the time of the collision. I think the collision drove the head of the Richmond down stream.

Question. Can you state whether the head of the Richmond was swinging down stream at the time this collision took place?

A. No, sir.

804 Question. You cannot state that?

Ans. No, sir.

Question. What is the nature of the water there under that point; is it an eddy or slack water?

Ans. Well, it is slack on the coast now. When the river is low there is very little current from Bayou Sara to New Orleans; when it is not that way there is quite an eddy.

Question. What effect would that eddy have on a descending boat?

Ans. It would round her to the mud bank.

Question. What kind of weather was it that night?

Ans. In the early part of the night it was very bright. At one o'clock it was cloudy. A short time after we left the elevator it was raining, and it was raining a little after the collision.

Question. Was the wind blowing any?

Ans. It was, and continued to blow hard.

Question. In which direction was the wind?

Ans. I could not tell. I judge from the south or southwest, probably a little west of south; it was blowing on the shore.

Question. Directly across the river under that shore?

Ans. It was.

Question. From what you saw of that collision, just state distinctly your opinion as to what caused it?

Ans. Well, I would hardly know how to talk about that, unless I would say that the descending steamboat varied from her course very greatly from any other steamboat. The wind blowing heavy and strong, I think that she might have got into the slack water and became ungovernable by the pilot.

Question. What effect would that have?

Ans. Bringing her in against the bank unless the engines were reversed and boat backed.

Question. Do you know whether the engines were reversed?

Ans. I do not know.

Question. Do you know whether the speed was checked?

Ans. I do not know.

Question. Do you know whether she had headway when she struck the Richmond?

Ans. I do not know.

Question. Did not she continue to move in towards the bank?

Ans. Yes, sir.

Question. How far?

Ans. About a hundred or a hundred and fifty yards. She was quartering into the bank when the collision took place. We left her, however, and I could not tell.

805 Question. Had the Sabine pursued the usual and proper course of descending boats in that part of the river, would or would not there have been any collision?

Ans. I think not, unless something would have occurred unusual; at a point like that the water is deep, and the Richmond would have turned around that point as she often did before; there is always plenty of water there.

Question. You speak of the Richmond pursuing her usual course up the river?

Ans. Yes, sir.

Question. Was or was not that the course usually adopted?

Ans. I do not propose to answer that question. I did not see her moving up the river at all. I know that where she was was about the proper distance from shore for an ascending steamboat.

Question. At the time you looked out?

Ans. Yes, sir.

Question. You spoke of the Richmond having sounded three signals or one blast; what was the first signal for?

Ans. I do not know; I was told it was for a railroad car.

Question. Which side of the river is that railroad?

Ans. It is on the right bank geographically, or the left bank going up stream.

By Mr. COHEN:

Question. How much cotton fell off the Sabine; much or little?

Ans. Do you mean what was thrown off the boat?

Question. Yes.

Ans. Well, there was a considerable quantity; I do not know how much.

Cross-examined by Mr. MARR:

Question. How far from the right-hand shore, going up, was the Sabine at the moment of the collision?

Ans. About a hundred yards from the right-hand shore, as near as I could guess; the right-hand shore going up.

Question. The Richmond was then between the Sabine and the left-hand shore?

Ans. Well, I could not say that; they were right together when I saw them.

Question. What part of the Richmond came in contact with what part of the Sabine?

806 Answer. The larboard side of the Richmond; I could not tell exactly how far from the jackstaff, but I know it was forward on the larboard side.

Question. The larboard side of the Richmond came in contact with what part of the Sabine?

Ans. I took it to be the bow of the Sabine from my position.

Question. Did you see whether the jackstaff went down in that collision?

Ans. I have not seen it.

Question. You have never seen it?

Ans. No, sir.

Question. You do not know whether it fell or not?

Ans. No, sir.

Question. What part of the Richmond was injured by that collision?

Ans. The larboard bow and a plank broken in some six or eight feet aft on the larboard side, two feet above the water.

Question. How far does that extend?

Ans. The hole was very small, but it started the plank, and I found it necessary to take it out four or five feet.

Question. How near was the break up to the stem?

Ans. I could not tell; I think, though, between four or six or eight feet.

Question. From the stem?

Ans. Yes, sir.

Question. You could not state whether the jackstaff of either boat went down?

Ans. I know the Richmond's did not, and I never saw any jackstaff belonging to the other boat at all.

Question. How far is Kennedy's house from Nine Mile Point?

Ans. I should think it was about a mile.

Question. How far from Kennedy's house to Twelve Mile Point?

Ans. About two miles.

Question. How do boats run from Nine Mile Point to Twelve Mile Point?

Ans. They run up from Nine Mile Point to Kennedy's house, and hold over to Twelve Mile Point to get the slack water.

Question. After you round Nine Mile Point is there any obstruction so that you could not see a light up to Twelve Mile Point?

Ans. Well, it is ordinary; you could not see it until you came under it.

Question. Well, at Kennedy's house, can you see anything in the river from Kennedy's house to Twelve Mile Point?

Ans. You can see signals.

Question. Of boats?

Ans. Yes, sir; even above that.

807 Question. How far can you see the lights of boats above?

Ans. Half a mile; up to Merritt's wood yard.

Question. But there is nothing to obstruct the view in seeing a boat up to Twelve Mile Point from Kennedy's house?

Ans. No, sir.

Question. Is there any shallow water or anything else to prevent a boat holding out from the point at which this collision occurred up to the left-hand shore?

Ans. From Twelve Mile Point——

Question. Here is your diagram, "A." You represent this collision as having taken place off Twelve Mile Point; the Sabine was on the right-hand side going up?

Ans. Yes, sir,

Question. Is there any slack water there? [Counsel refers to a particular spot on the diagram near which the collision is said to have occurred.]

Ans. No, sir; deep water up to the left-hand shore; from Nine Mile Point it opens, and where the collision occurred it is deep.

Question. From the point at which the collision occurred is not the water deeper from the right-hand shore than it is from the point of collision to the left-hand shore?

Ans. Well, I should judge it was deeper on the left-hand shore going up than on the right-hand shore going up; (that is the bend of the river, and of course it is deep.)

Question. In running on this river, after you round Nine Mile Point you run up opposite Kennedy's house?

Ans. Yes, sir; sometimes above it.

Question. From there how do you hold up to Twelve Mile Point?

Ans. We hold on it, and oftener under it.

Question. Have you any knowledge at all of how the Richmond was navigated from Nine Mile Point, or from Kennedy's house, up to the point of collision?

Ans. None whatever.

Question. When did you make this map?

Ans. I don't know; I believe I made it on Saturday last.

Question. After the collision?

Yes, sir; Saturday.

Question. You saw nothing of these two boats until about the time they were coming together?

Ans. No, sir; not until they got very near together.

Question. Did you go up there to make it—Exhibit A—or did you make it from your recollection of the river, here in New Or-

808 leans?

Ans. From a map and my knowledge of the river, up there.

Question. How far did this collision occur off Twelve Mile Point?

Ans. Two hundred yards below; that part of the point where the collision occurred the shore was straight.

Question. Then the Sabine had gone below Twelve Mile Point, and was in the straight part of the river?

Ans. Yes, sir; about two hundred yards under the point; that is, under the last round part of the point.

Question. Do you know of any circumstances which prevented the Richmond from holding towards the left-hand shore?

Ans. No, sir; except to avoid a collision with this boat.

Question. If she had held towards the left-hand shore, what would have been the result?—the left-hand shore going up.

Ans. I have no idea of what would have been the result; if she had held so she would have run into the bank.

Question. If she had held to the left-hand shore, could the collision have occurred?

Ans. I could not tell that.

Question. Which way was the head of the Sabine pointing when you first saw her; to the right or left hand shore?

Ans. The left hand shore coming down, and the right going up.

Question. Do you know of any cause of boats holding to the shore going up?

Ans. No, sir.

Question. Do you know of any reason why she—the Richmond—held to the shore?

Ans. Yes, sir; we held there for the purpose of getting the slack-water, and every boat running up takes that advantage of getting the slack-water.

Question. Do you do that all the time?

Ans. Yes, sir; that is, the ascending steamer.

Question. And you hold that she has a right to go that way?

Ans. Yes, sir.

Question. Do you know of any circumstance or cause to prevent the Richmond from holding to the right-hand shore going up?

Ans. I do not know of any cause.

Question. Do you know what way the head of the Richmond was pointing when you first came out?

Ans. The Richmond was pointing to the shore on the right-hand bank; I saw that past the centre of the Sabine plainly.

Question. Which side of the Richmond did you come out?

809 Answer. On the larboard side, and I saw the right-hand shore.

Question. Then the Richmond must have been holding square into the shore?

Ans. That is what I think.

Question. Otherwise you could not see the shore?

Ans. Yes, sir. (No, sir, should be the answer.)

Question. And you saw the shore plainly?

Ans. I did.

Question. Then the Richmond must have been holding into the shore?

Ans. That's what I say.

Question. Well, suppose the Richmond had kept on her course and the Sabine had not been there, what would have happened?

Ans. I think she would have run into the bank.

Question. She had a hundred yards between her and the shore?

Ans. Yes, sir; but she might not hit the bank.

Question. How long is the Richmond?

Ans. I am told she is three hundred and forty feet.

Question. You know she is three hundred feet?

Ans. Yes, sir.

Question. She was within a length of herself from the shore, and pointing to the shore?

Ans. Yes, sir.

Question. Can you imagine any maneuver by which the Richmond, holding as she was to the right-hand shore—pointing with her head to

the right-hand shore, and being some hundred yards below Twelve Mile Point—could have rounded Twelve Mile Point?

Ans. No, sir; she could not.

Question. Could she have rounded Twelve Mile Point without changing her position?

Ans. Of course she could not; she would have had to back out from the shore and straightened up to get round it; she would have had *had* to back out.

Question. She could not get round without changing her way and getting out further?

Ans. Yes, sir.

Question. Now I ask you, as a pilot, what business had the Richmond, going up the river and intending to round Twelve Mile Point—what business had she within a hundred yards of the shore at Twelve Mile Point?

Ans. Because it was the proper position of an ascending steamboat, and where she has run time and again since I have been on her.

Question. You then say she could have done it?

Ans. Yes, sir; by going up the river on her natural course; there is a great difference when there is a steamboat between her and the bank.

810 Question. I wish you would tell me, as a pilot, how, after having rounded Nine Mile Point, you run your boat round Twelve Mile Point, running up; how do you do it?

Ans. As I stated before, leaving the left-hand shore about Kennedy's house, we hold on the point—if any, a little under it—until we get good steering distance, perhaps a hundred and fifty yards from the shore, and then turn the point.

Question. How far do you hold when you are two hundred yards under Twelve Mile Point; how far do you hold?

Ans. Not half the length of the Richmond.

Question. Can you explain to us how it was that the Richmond was pointing square into the shore?

Ans. I don't know; I have my ideas about it; stopping the starboard engine, and stopping the wheel, that would cause it.

Question. You do not know that it was done?

Ans. No, sir; I was not in the pilot-house, nor did I have hold of the wheel.

By Mr. CAMPBELL:

Question. That is pretty much all dead water along there?

Ans. Well, no, sir; but under the point it is dead always.

Question. From the point, how far did the dead water extend?

Ans. I should think one hundred and fifty yards.

Cross examined by Mr. EGAN:

Question. How long have you been employed as pilot on the Richmond?

Ans. Eighteen months.

Question. You are familiar with her handling?

Ans. Yes, sir.

Question. Is she a boat that steers well?

Ans. She does in mark twain, and deeper water she steers very well; that is on twelve feet of water or deeper.

Question. Did not you give your testimony before a board of inspectors in this city?

Ans. I did.

Question. Didn't you apologize to them for the steering of the Richmond?

Ans. No, sir.

Question. Did you remark anything to them about it?

Ans. I do not know that I did; I stated just about what I state
811 here; that it is a good steering boat in mark twain or deeper water; that is my experience either along shore or in deep water.

Question. Has she met with several accidents before this collision by running away with the pilots?

Ans. I do not know of any; I have heard of her once running into a bank, but I do not want to answer that question, "running away with the pilot."

Question. You heard of her running into the bank?

Ans. Yes, sir; by accident.

Question. You were not on board of her?

Ans. No, sir.

Question. Is she not counted by pilots in general a hard steering boat, difficult to steer?

Ans. Before we went on her, or rather before this company bought her, she was considered a hard boat, but since she has got a new tiller and a new wheel, and now she is a good steering boat.

Question. When were these put on her?

Ans. Since the present owners have bought her.

Question. Do you know they were put on her?

Ans. Yes, sir; I know she has got a different wheel, and I saw the rudder that was put on her before it was painted.

Question. Would it not make a considerable difference in steering by the manner in which the cargo was loaded?

Ans. Yes, sir.

Question. Do you know whether or not this cargo was taken on hastily at the elevator?

Ans. I know not; we spent a good while there.

Question. Was it all stowed?

Ans. Yes, sir.

Question. Was it not taken on first and then stowed after she got under way?

Ans. I do not know about that.

Question. You were asleep at the time the first whistle was sounded?

Ans. No, sir; I was not.

Question. You heard it?

Ans. Yes, sir.

Question. That was sounded at the cars?

Ans. Yes, sir.

Question. Is it usual to blow the whistle at the cars?

Ans. No, sir; I was only told that it was blowing for the cars.

Question. What was the object in blowing the whistle at the cars?

Ans. Mr. Duffey told me he first thought it was a steamboat, and blew for it; I think at that time it was dark and probably raining.

Question. What cars are you talking about?

812 Ans. Well, they came down the right bank of the Mississippi River; the right bank coming down.

Question. The Texas Railroad?

Ans. Yes, sir.

Question. The whistle was on the left bank going up?

Ans. Yes, sir.

Question. Where was the boat at that time?

Ans. I do not know; I was in bed.

Question. How long after that before you heard the next whistle of the Richmond?

Ans. I don't know; it might have been a minute or two; I cannot tell.

Question. Did you get up then?

Ans. No, sir; I got up after.

Question. You did not get up; was that whistle in answer to the two whistles blown by the Sabine?

Ans. No, sir; the first whistle was blown at the cars.

Question. I asked you how long after the whistle was blown to the cars before the Richmond blew her second whistle?

Ans. A minute and a half or two minutes.

Question. How long was it after that whistle was blown that the Sabine blew her two whistles?

Ans. Immediately after.

Question. The Sabine's two whistles preceded the Richmond's one, without referring to the one blown at the cars?

Ans. You say preceded?

Question. Yes.

Ans. No, sir; after the first blowing of the first signal of the Richmond that was blown for the Sabine.

Question. Were these whistles crossing each other?

Ans. No, sir; they were separate and distinct.

Question. Did you get up then?

Ans. Yes, sir; when I heard the two blasts from the Sabine.

Question. Why did you get up?

Ans. Because I thought there would be a collision, for it is unusual for them to change whistles; we, the ascending boat, first gave the signal, and the boat is steered accordingly.

Question. And no answer?

Ans. Yes, sir; it was responded to.

Question. Did not the Sabine respond to the whistle?

Ans. Not as we gave it; we gave one blast and she gave two; one is for the right and two for the left.

Question. If the boats had steered in accordance to that signal would it not keep them apart?

Ans. No, sir.

813 Question. Would it have produced a collision?

Ans. Yes, sir; one would be pulling to the right and the other to the left.

Question. How long after that was it before the Sabine blew again?

Ans. Well, I could not say; probably a minute and a half or two minutes. I could not state definitely.

Question. When you got up did you put your clothes on?

Ans. Not until after the collision.

Question. Then you did not see the collision?

Ans. I did.

Question. Where were you when the collision occurred?

Ans. Standing on the larboard side of the texas, at the gangway door.

Question. You got up after the first signal and before the second?

Ans. Yes, sir.

Question. You saw, then, the collision?

Ans. Yes, sir.

Question. How long had you been standing there before the collision took place?

Ans. I don't know; a few seconds.

Question. You could see the side of the Sabine?

Ans. The starboard side of the Sabine.

Question. And the head of the Richmond?

Ans. No, sir.

Question. What side did you see?

Ans. I saw the larboard side forward, as I could see out of the texas.

Question. Was the night clear?

Ans. No, sir; it was alternately clear and cloudy; it was clear in the fore part of the night and then raining; it was cloudy at the time of the collision.

Question. It was sufficiently light to see the bank?

Ans. Yes, sir.

Question. Is the bank bluff?

Ans. It was where the collision occurred.

Question. How high is the bank above the water?

Ans. Well, I do not say more than two or three feet at that place; perhaps not over four feet.

Question. Then you were not closer than a hundred yards in order to see it?

Ans. I saw that after we went back to the boat.

Question. How far did you stand off the bow of the Richmond?

Ans. About one hundred feet.

Question. And from your position you were about a hundred yards from the shore?

Ans. Yes, sir.

Question. From where you stood?

Ans. Yes, sir; I say the boat was that far.

814 Question. Did you hear any bells ring on the Richmond?

Ans. One.

Question. What bell was that?

Ans. The engine bell.

Question. When was that rung?

Ans. It was after the Sabine gave her first signal of two blasts.

Question. Did the Sabine blow more than one whistle?

Ans. She did.

Question. Twice?

Ans. Yes, sir; each time twice.

Question. How many did the Richmond give?

Ans. Two.

Question. Both one blast?

Ans. Yes, sir.

Question. What sort of a bell was this; the slow bell or the backing bell?

Ans. It was what we call the "go ahead" bell, or stopping bell; we use the one bell for either purpose—to stop or go ahead.

Question. Were there any gongs struck?

Ans. Not that I heard.

Question. Would you have heard it struck?

Ans. I think not.

Question. Did you sleep in the texas?

Question. Did the bell rope run through your room?

Ans. No, sir; it runs very near it; fifteen or twenty feet from my room.

Question. Does it run through any of the rooms?

Ans. It runs outside of the rooms.

Question. But does it in them?

Ans. No, sir; I do not know that any part is inside.

Question. If you could hear the bell could you not hear the gong if it struck?

Ans. No, sir; there is such a distinction between them that we could not hear it.

Question. How long after you heard the bell was it before the collision took place?

Ans. I suppose about a minute and a half.

Question. You were up at the time you heard the bell?

Ans. I was not.

Ques. You were in bed still?

Ans. I was.

Question. If there had been a backing bell rung would you have heard it?

Ans. No, sir; because it is a gong; I never heard the gong; but the bells I heard distinctly.

Question. Could gongs be heard from any part of the texas?

Ans. Possibly near those tubes which convey the sound of the bells and the gongs to the pilot-house; we can hear them in the pilot-house; any person near them could have heard it.

815 Question. Do the tubes come inside your room?

Ans. No, sir.

Question. Do they come inside any of the rooms in the texas?

Ans. Well, there may be a bulkhead divides it.

Question. What room in the texas did the steward occupy?

Ans. I do not know.

Question. Do you know him?

A. Yes, sir.

Question. Was he back of yours or forward?

Ans. Back of mine.

Question. Did you see him on the night of the collision?

Ans. I did. I seen him in the hall of the texas.

Question. What time?

Ans. Immediately after the collision.

Question. Had he his clothes on?

Ans. I think he had part of his clothes on; he did not have a hat on.

Question. What part had he on?

Ans. I think his pants and boots.

Question. Which side of the texas was his room?

Ans. I do not know.

Question. The texas has rooms on both sides?

Ans. Yes, sir; and a hall through the center of it.

Question. Which side of the texas was your room?

Ans. The starboard.

Question. Did you see the carpenter?

Ans. I saw him at one time after the collision.

Question. Where was he?

Ans. In the hall of the texas putting on his coat.

Question. Did the steward make any remark in the hall of the texas?

Ans. I do not remember, but the carpenter did.

Question. What remark did he make?

Ans. He remarked to me that I had better put on my clothes; that our "head" had been knocked off.

Question. Did the steward come in there to call the carpenter?

Ans. Not to my knowledge.

Question. If you were asleep on the night of the collision how do you pretend to have drawn up this map and given the track of this vessel?

Ans. From my knowledge of the river.

Question. You do not mean to say that that was the track; you being asleep, how do you mean to give this as the track of the
816 vessel?

Ans. I got that from Mr. Duffey; he drew the line she struck off to.

Question. You did not know the track of the vessel?

Ans. No, sir.

Question. This is drawn entirely from that statement made to you by Mr. Duffey and your knowledge of the river?

Ans. Yes, sir.

Question. Duffey told you that the boats headed that way?

Ans. Well, I seen them as they are represented there.

Question. You did not see the bow of the Sabine?

Ans. No, sir; from where I was standing they were too close together at the time.

Question. If the Richmond had kept her proper course would she not have crossed from Nine Mile Point over in the bend before she did, according to this drawing?

Ans. No, sir; because there is a mud bar, and there the boat will have a straighter view as well as a clear way.

Question. And what object would you gain by straightening over towards the point; would you here only gain two hundred yards of dead water?

Ans. We would gain in distance.

Question. You would gain nothing but getting the slackwater, and two hundred yards would be of no use?

Ans. I did not say that the slackwater was only two hundred yards long.

Question. But two hundred yards under Twelve Mile Point?

Ans. Yes, sir.

Question. And you would gain these two hundred yards along Twelve Mile Point?

Ans. Yes, sir; we gained the slackwater before the collision occurred. I do not say we went there for the purpose of getting the slackwater, but we were over there when the collision occurred.

Question. How wide is the river from the place of the collision?

Ans. It is three quarters of a mile, perhaps not so much.

Question. How wide is the river in front of New Orleans?

Ans. I don't know; I think it is a little wider opposite the steamboat landing than up there.

Question. How many yards in a mile?

Ans. 1760, as near as I can remember.

Re-examined by Mr. BILLINGS:

Question. You have stated that the Richmond was in her
817 proper course and position ascending the river; what would have been the proper and usual course of the Sabine coming down the river at the point of the collision?

Ans. She would have been in the middle of the river, or in the bend.

Question. That is, been on the other side of the river, or in the middle?

Ans. Yes, sir.

Question. When the whistle of the Richmond was blown, what was the proper course for the Sabine to have pursued?

Ans. She should have pulled out in the stream into the middle, and kept on that course.

Question. Then if the Sabine had been in the usual and proper course of descending steamboats, would there have been any collision?

Ans. I think not.

Question. If she had obeyed the signal given by the Richmond, would there have been any collision?

Ans. I think not.

Question. What is the rule for signals in ascending steamboats?

Ans. That would depend altogether upon the condition of the boats if they are running right.

Question. When two boats are meeting?

Ans. The ascending steamboat is required to blow first.

Question. You speak of the Richmond going in towards the shore, and you said it would have been necessary for her to have backed out; what, in your opinion, was the occasion of her being borne in so far to the shore?

Ans. To prevent the collision.

Question. Was it or was it not the stopping of the machinery and the reverse of the wheel that nearly bore her in?

Ans. Yes, sir, and I stated that it was the backing of the engines and the stopping of the wheel that bore her in that way.

Question. What were her engines doing at the time you speak of her as being borne in towards the shore?

Ans. I have no knowledge.

Question. Can you state from the course of the steamer?

Ans. I should think she was backing, because immediately after the collision she did back away from the Sabine.

Question. That is your opinion from all you saw?

Ans. Yes, sir.

Question. How deep was the Richmond loaded, and how was she loaded?

Ans. I did not see until we returned to this port; I know the boat was drawing then about six feet aft and about six feet three forward.

818 Question. Is that a light or heavy draught for a boat of her size?

Ans. Not a heavy draught for her.

Question. She was loaded, then, properly?

Ans. I think so, and in as good trim as she could keep cotton in; she handled well, and whenever she steers well she is loaded well.

Recross-examined by Mr. EGAN:

Question. Do you know whether any of the engines of the Richmond were backing or not?

Ans. No, sir.

Question. Could you not hear the revolutions?

Ans. No, sir; she being a low-pressure boat, we could not hear the escapement of steam or revolutions of the wheel.

Question. How long before the collision was it that you heard that bell ring that you did hear?

Ans. I do not know; it may have been a minute or a minute and a half.

Question. What is your best idea of it?

Ans. I could not state any definite time; I remember to have heard the bell probably a minute or two before the collision occurred.

Question. Can you state now whether that bell was to stop or go ahead?

Ans. I do not, but heard it.

Question. It was not the backing bell?

Ans. No, sir; because they are gongs.

Question. Did you hear any other bell but that?

Ans. No, sir.

ANDIS SAUNDERS, sworn for the claimant and cross-libellant, says:

Examined by Mr. BILLINGS:

Question. Where were you on the night of the 10th and morning of the 11th of February?

Ans. I was standing on the forecastle.

Question. On board of the Richmond?

Ans. Yes, sir.

Question. Employed on her?

Ans. Yes, sir.

Question. As one of the hands?

Ans. Yes, sir.

Question. Where were you standing?

Ans. Standing on the forcastle.

819 Question. State what took place.

Ans. While I was standing there I saw this boat—the Sabine—coming, and heard the Richmond blow one whistle. I did not hear the other boat blow any whistle at all. She was still coming on to the Richmond, and just before the thing happened the Richmond rang the bell to stop her, and then rang the bell to back her. That was while this boat was still coming along.

Question. Did the Richmond obey the bell to stop?

Ans. Yes, sir.

Question. What was rung then to back her?

Ans. The gong.

Question. Did you hear it?

Ans. Yes, sir.

Question. Was she backed?

Ans. Yes, sir.

Question. How do you know that?

Ans. Well, she was throwing water forward, and I discovered she was going back.

Question. Then came the collision?

Ans. Yes, sir; she came right across the Richmond's bow.

Question. Where did the Sabine hit the Richmond?

Ans. Right forward the knee.

Question. Did she throw any cotton over on the Richmond?

Ans. Yes, sir, a good deal; I could not say how many bales it was.

Cross-examined by Mr. MARR:

Question. Was the furnace in front of the boilers?

Ans. Yes, sir; on the forecastle.

Question. How far were you from the place they go up to the cabin?

Ans. I could not tell exactly how far.

Question. Were you forward of that place?
Ans. Yes, sir.
Question. Did you notice which way the Richmond was heading when this boat came along?
Ans. Yes, sir.
Question. Which way was she heading?
Ans. Right into the bank.
Question. Her head was pointing to the shore?
Ans. Yes, sir.
Question. How far off from the shore?
Ans. About fifty or seventy-five yards; I could not tell exactly.
820 Question. How long before the boats came together did you hear the bell ring?
Ans. I could not tell you that.
Question. How far were the boats apart when that rung?
Ans. I could not tell you how far.
Question. Well, what is your idea?
Ans. About fifty yards.
Question. When you heard the bell ring?
Ans. Yes, sir.
Question. And then you heard the gong ring?
Ans. Yes, sir.
Question. Did you see which side of the Richmond, the larboard or starboard, that came in contact with the other boat?
Ans. The larboard side.
Question. Hit the Richmond on the larboard side?
Ans. Yes, sir.
Question. Which side of the other boat?
Ans. The larboard side.
Question. Did you notice about the stars that night at the time they hit?
Ans. No, sir; I did not look at them.
Question. Have you any idea of about far it is from where you were standing to the engine-room?
Ans. No, sir; I have no idea.
Question. But you know you were standing forward of the place that went up into the cabin?
Ans. Yes, sir.
Question. Then came the boilers after you?
Ans. Yes, sir.
Question. After that was the engine room?
Ans. Yes, sir.

Cross-examined by Mr. EGAN:

Question. What brought you out on the forecastle?
Ans. I was on the watch.
Question. How long had you been on the watch?
Ans. About half an hour.
Question. What do you mean by being on the watch?
Ans. I was to stand watch from then until four.
Question. What was the object of your watch?
Ans. I should stand on the watch, and at a call when anything was to be done to do it.
Question. Were you firing the boat?
Ans. No, sir.
Question. You were to attend upon whom?

Ans. The mate.
Question. You were waiting on the mate?
Ans. Yes, sir.
821 Question. Where was he?
Ans. I do not know at the present time.
Question. What was your duty?
Ans. To do anything I was required to do on board of the boat.
Question. Was it running at the time of the collision?
Ans. No, sir; I did not discover whether it was running or not.
Question. How long had you been on the forecastle?
Ans. Not more than about ten or fifteen minutes.
Question. Were you frightened?
Ans. Yes, sir; when I saw the boat coming.
Question. Where did you run to?
Ans. I ran aft.
Question. What part of the aft did you run to; where did you stop at?
Ans. Back in the engine room.
Question. Why did you run so far as the engine room?
Ans. I did not know what was going to happen.
Question. Who stopped you there?
Ans. I stopped myself.
Question. How far were the boats apart when you started to run?
Ans. I could not tell; they were pretty close.
Question. How close?
Ans. Well, they were pretty near struck then.
Question. Did you run very fast?
Ans. Yes, sir; I did.
Question. How long after the Richmond first whistled was it before you started to run?
Ans. I could not tell you exactly how long.
Question. Immediately afterwards?
Ans. Yes, sir; about three or four minutes I suppose.
Question. You did not want to see what boat it was that you run into?
Ans. No, sir.
Question. Was it the cotton that fell from the Sabine that broke the knee?
Ans. I could not tell whether it was or not.
Question. Do you know how the Richmond hit the Sabine?
Ans. No, sir; only I saw it quartering across our bow.
Question. Was the Richmond going ahead at that time?
Ans. Well, she was going back.
Question. Backing at the time, or going ahead?
Ans. She was going back.
Question. Did you see her going back?
Ans. Yes, sir.
Question. How did you know?
Ans. I could tell by the water.
822 Question. Did you look to see whether the water was coming forward or not?
Ans. I saw it.
Question. Did you look?
Ans. Yes, sir.
Question. How did you see it coming forward?
Ans. The wheel was throwing it forward.

Question. Were you not too much frightened to look at that?
Ans. I looked every way when they were passing.
Question. Did you make a noise?
Ans. I was too much scared to make a noise.
Question. What was the object of the bell that was rung?
Ans. To stop her.
Question. How do you know that?
Ans. Because she stopped when the bell rang.
Question. How do you know the bell was to stop her?
Ans. Because the engineer stopped her, and she quit going ahead.
Question. Did you see whether she was going ahead?
Ans. Yes, sir.
Question. What object did you look by; how could you tell?
Ans. It was pretty close to the bank; by that I could tell.
Question. If you had not hit the Sabine would not the Richmond run into the bank?
Ans. I suppose she would.
Question. She was very close on to it?
Ans. Yes, sir; very close to the bank.
Question. What bank of the river was it?
Ans. The right hand side going up.
Question. What was the object of the gong?
Ans. To back her.
Question. How long after the bell was rung was the gong rung?
Ans. I could not tell.
Question. Did you not go into the engine room when the gong rung?
Ans. No, sir.
Question. Where were you, then?
Ans. On the forecastle.
Question. How long did you stand there after the gong rang?
Ans. I could not tell.
Question. Do you know how the other boat was heading?
Ans. Yes, sir; right across the stem of our boat.
Question. She was coming down the river and you into the bank?
Ans. Yes, sir.
Question. You are a colored man?
Ans. Yes, sir.

823 CHARLES KITELOE, sworn for the claimants and cross libellants, says:

Examined by Mr. BILLINGS:

Question. Were you employed on the Richmond when the accident took place?
Ans. Yes, sir.
Question. In what capacity?
Ans. A roustabout on her.
Question. Where were you on board of her on the night that the collision took place?
Ans. I was on the fire watch on the coal box breaking up coal at the time this happened; I was on the coal box and heard the Richmond blow a long whistle, and a short time after a fireman that was not on the watch came in and said "Shut up the flue caps;" I think it was Mr. Wilson, the engineer; then I said "What is this boat going to do; are we going to land here?" I then went out on the guards and saw

this boat coming and heard our bell ring to stop her; then at that time I went out on the guards and saw the boat coming, and after a little while when it came we were pretty close to the shore swinging in; then this other boat seemed like coming round the point and came into the knee of the Richmond.

Question. On which side?

Ans. The larboard side; I stayed there after she struck, and the hands all came running out, and the last grabbed a hold of me; I could not speak, I was frightened so, and when I did come to myself he turned me loose.

Question. What made you make the remark "What are we doing; are we going to land?"

Ans. Because she was so close to the bank?

Question What way was she headed at that time?

Ans. She seemed to be going into the bank; like as if that (the window) was the bank; she had her head pointed right to it.

Question. Did you see the Sabine when you heard the bell ring to stop her, the Richmond?

Ans. No, sir, I did not see her then; but shortly after the bell rang I looked up the guard, and saw the signal light.

Question. How far off was the Sabine at that time?

Ans. Well, in the night, as near as I could come at it, about three hundred yards.

Question. How far off was she at the time you heard the gong ringing to back her?

824 Ans. About four hundred yards after I heard the first bell, because the Sabine was off from the Richmond then.

Question. What way did she appear to be coming when you saw her?

Ans. She appeared to be coming round the point; like here's the Richmond coming in close to the shore [witness describes her position], and I asked "What was she going to do; was she going to land?" then the Sabine came into us and struck us.

Question. What part of the Sabine struck the Richmond?

Ans. I suppose it struck her along the head somewhere, as near as I can come to it.

Question. Whereabouts did she strike the Richmond?

Ans. Struck her on the larboard side, about the knee; I do not know exactly; I did not pay much attention to the place.

Question. You saw the Sabine coming down?

Ans. Yes, sir; and when she struck we swung away from her, and backed down the river; then she turned and went on up the river, and shortly after that she blowed for us, and we were coming to her as fast as we could, and gave answer back; we went to save the passengers.

Cross-examined by Mr. EGAN:

Question. What was your employment on the Richmond?

Ans. I was a roustabout.

Question. When did your watch come on?

Ans. At twelve o'clock.

Question. What were you doing on your watch?

Ans. I was passing coal; it was the first watch; we are numbered off, four in a watch.

Question. Did you hear the whistles of the Sabine?

Ans. No, sir; I did not hear any one; I heard the Richmond blow one whistle, and I heard no answer from her—the Sabine.

Question. Then how long after the Richmond blew one whistle was it before you came out of the coal box?

Ans. When she blew one whistle, a fireman came in and said "Shut up the flue caps;" he was not on the watch.

Question. Where did the fireman come from?

Ans. From about there.

825 Question. Did you go then and shut up the flue-caps?

Ans. Yes, sir.

Question. How long did it take to do that?

Ans. Well, four or five minutes.

Question. Then what did you do?

Ans. I went out on the larboard guard, and says, "What is this boat going to do; is she going to land?"

Question. What fireman did you say that to?

Ans. To Joe Travis, the colored man that was here to-day; he is the one came in and shut them.

Question. You were talking to him.

Ans. Yes, sir; spoke back in the coal-box.

Question. What did he say?

Ans. He said he did not know what she was doing.

Question. Was her head pointed to the shore?

Ans. Yes, sir; the Richmond's was.

Question. How far from the shore?

Ans. Well, as near as I can count, two hundred yards.

Question. How many feet in a yard?

Ans. Sixty, I believe.

Question. How many feet in a yard?

Ans. I don't know.

Question. How many inches in a foot?

Ans. I don't know; I don't profess to know anything.

Question. How far would be two hundred yards—the length of this room?

Ans. I suppose more than that.

Question. Would twice the length of this room be two hundred yards?

Ans. About twice the length of this room (the clerk's office)? Yes, sir.

Question. When did you see the Sabine?

Ans. I was standing up there on the guards and seen the boat coming right into us; I stayed there until she struck.

Question. Were you not scared?

Ans. When I looked first; before I could say anything she struck, but I still stood in my place.

Question. You were very much frightened?

Ans. Yes, sir; I was frightened that I could not run; there was an awful noise, and the firemen coming and running out of the coal-box.

Question. They run?

Ans. Yes, sir; and the last one came and grabbed me by the arm.

Question. You say you were too frightened to run?

Ans. Yes, sir.

826 Question. Did they run too?

Ans. Yes, sir.

Question. Did not the cotton that fell from the Sabine on the Richmond break the knee?

Ans. I don't suppose cotton could have done it; I know that cotton fell from the boat.

Question. How high did it fall?

Ans. It was very high.

Question. How many bales of cotton fell from the Sabine on to the Richmond?

Ans. Well, a good pile.

Question. Seventy-five bales?

Ans. Seventy-five or a hundred, as near as I can come to it.

Question. Did they not come on to this knee?

Ans. They fell all round it.

Question. Did not the Richmond run into the Sabine?

Ans. No, sir.

Question. How do you know that?

Ans. Because I was standing looking at them.

Question. But you say you were so frightened you could not run, then how could you tell?

Ans. I was frightened, but I saw it all.

Question. Did you hear the backing bell of the Richmond?

Ans. Yes, sir.

Question. Is it a bell that backs the Richmond?

Ans. The gong stops her.

Question. And what does the bell do?

Ans. Backs.

Question. When did you hear the gong?

Ans. After I came out of the fire-house.

Question. Did you hear the gong before you heard the bell?

Ans. Yes, sir.

Question. You heard both the gong and bell?

Ans. I heard the gong first and the bell next.

Question. How long have you been on the Richmond?

Ans. This is the first time I have been on her; I came on her that same evening.

Question. How long have you been running on boats?

Ans. Since 1867.

Question. Previous to that you worked on a plantation?

Ans. No, sir.

Question. What did you work at?

Ans. I always stayed in town before the war.

Question. And worked in town?

Ans. Yes, sir.

827 Question. What did you work at?

Ans. Waited on my master; he was a lawyer.

Re-examined by Mr. BILLINGS:

Question. How much is a yard, according to your idea of it; what do you call a yard?

Witness extends his arm and answers that his idea of a yard measure would be the length of his arm from his chin to the tips of his fingers.

JOHN HENRY WILLIAMS, sworn for the claimants and cross-libellants, says:

Examined by Mr. BILLINGS:

Question. What was your business on the Richmond?

Ans. It was to go up to Cairo.

Question. In what employment?

Ans. I was a rooster.

Question. Were you up at the time this accident occurred between the Richmond and the Sabine?

Ans. I was.

Question. Did you hear any whistle from the Richmond?

Ans. Yes, sir; I heard the Richmond blow one whistle.

Question. Where were you at the time?

Ans. I had some barrels on the guard; I had been bringing water and went to get it after eating lunch; I heard the whistle blow and I said, "Are we going to land here?" and after that, looking up, I saw the Sabine was about six hundred yards off; then I heard them strike the gong to stop, and then she was about the length of the boat from her.

Question. How far off were the boats apart when you heard the gong to stop her?

Ans. When I heard it she was about four hundred yards.

Question. Apart?

Ans. Yes, sir.

Question. Was the Richmond backing when they came together?

Ans. Yes, sir.

Question. How was she headed when they came together?

Ans. On the starboard.

Question. How was she headed, towards the shore?

Ans. The Richmond was headed for the shore and the Sabine running down.

828 Question. Where was the Sabine when you first saw her?

Ans. When I first saw her she was out in the river coming down; there was not a point on the river that I was not noticing.

Question. What direction was she coming?

Ans. She seemed like going to swing between the Richmond and the shore.

Question. How far was the Richmond from the shore at the time this accident took place?

Ans. I could not tell you; but about a hundred yards, as near as I can tell; I do not think it was any further.

Question. Where were you standing when the accident took place?

Ans. I was standing on the coal box.

Question. On which side?

Ans. On the larboard side.

Question. Did you see the Sabine when she struck the Richmond on the knee?

Ans. Yes, sir.

Question. What part of the Sabine struck the Richmond?

Ans. I think it must have been the side, by the way the cotton came.

Question. Which way was the Sabine headed when she struck the Richmond?

Ans. She was trying to cut across us against the bank.

Question. Did the Richmond strike the Sabine?

Ans. No, sir; I think she struck us; we were backing all the time.

Question. Do you know had the Richmond sternway when she struck?

Ans. Yes, sir; I think so.

Question. What made you make the remark "Are we going to land here?"

Ans. Well, I thought we were going to land for something, and said that to myself.

Cross-examined by Mr. EGAN:

Question. What were you shipped as; what position?

Ans. I was going to do anything that came to hand.

Question. As a roustabout?
Ans. Yes, sir.
Question. Where were you shipped?
Ans. At New Orleans.
Question. When did you come on the watch?
Ans. At twelve o'clock.
Question. What was your business?
Ans. They did not have any business then; there was nothing for us to do; we all were at lunch.
829 Question. Were you firing up the boat?
Ans. No, sir.
Question. Were you on the watch?
Ans. Yes, sir.
Question. What did you watch there for?
Ans. Just anything that might come to hand; moving freight or anything.
Question. Were you engaged in moving freight?
Ans. No, sir.
Question. What had you been employed at?
Ans. Stowing sugar.
Question. When did you get through stowing sugar?
Ans. About half an hour before.
Question. The sugar was not stowed away when it came on board of the boat?
Ans. Some was.
Question. How many men were engaged in stowing it?
Ans. Some four and five men in a gang, and some six.
Question. Where did you get the drink of water?
Ans. On the larboard side, near the coal-box.
Question. Did you get it up by a bucket?
Ans. It was already up in a bucket.
Question. What did you do after getting the drink of water?
Ans. I was standing on the guard.
Question. What were you doing there?
Ans. Nothing.
Question. Was it raining?
Ans. No, sir.
Question. Wasn't it clear?
Ans. No, sir; not real cloudy.
Question. Which way was the boat headed—the Richmond?
Ans. It was headed right into the bank.
Question. How far was she from the bank?
Ans. Well, I think about a hundred yards, as near as I could tell.
Question. Then if she had not struck the Sabine she would have struck the bank?
Ans. I don't know whether she would or not; there might have been a sand bar there.
Question. Where did she hit the Sabine?
Ans. I cannot state except just a little bit of the place.
Question. What part?
Ans. The side of her.
Question. The bow of the Richmond?
Ans. I do not know whether it was the bow or side.
Question. Did some of the cotton fall off the Sabine?
Ans. Yes, sir; some fell off.
Question. Did it break the knee of the Richmond?

Ans. Yes, sir.

830 Question. About how many bales fell off?

Ans. Well, I don't know, but there was a great deal.

Question. Were your frightened?

Ans. Yes, sir.

Question. Were the others frightened?

Ans. I don't know.

Question. What did you do?

Ans. I done nothing until they commenced hurrying.

Question. Which guard did the cotton fall on?

Ans. The larboard side.

Question. You stood on the larboard side?

Ans. Yes, sir, stood there.

Question. The cotton did not fall on you?

Ans. No, sir; I was aft of it.

Question. How far aft of the bow were you?

Ans. I was about fifty yards.

Question. How long is the Richmond?

Ans. I do not know.

Question. How many feet in a yard?

Ans. Well, I don't guess there's any.

Question. How many inches in a foot?

Ans. I don't know; I can't tell; I am not a carpenter.

Question. How close were the boats together when you first saw them?

Ans. Six hundred yards, as near as I can tell.

Question. How much further than the width of this room?

Ans. A good piece.

Question. Is it four times the length of this room—the clerk's office?

Ans. Yes, sir; I guess it was.

Question. About four times?

Ans. A little over four times.

Question. How many blasts of the whistle did the Richmond give?

Ans. I heard her blow one, that's the only one.

Question. How many did the Sabine give?

Ans. I don't know; I did not hear.

Question. Could you have heard it if she had?

Ans. Yes, sir, if she had blowed it; but I did not hear.

Question. Where were you when the Richmond blew the whistle?

Ans. I was getting a drink of water.

Question. Was it before or after?

Ans. When I was going to get it.

Question. Did you hear any bell ringing on the Richmond?

Ans. Yes, sir.

831 Question. What bell?

Ans. I heard the bell rung to stop her and the gong to back her.

Question. Does not the gong stop her?

Ans. No, sir; the bell stops her.

Question. You are certain of that?

Ans. Yes, sir.

Question. Could you hear both?

Ans. Yes, sir, I could.

Question. Where were you when the bell was rung?

Ans. Standing in the same position as when getting the water.

Question. Was that after getting the water?

Ans. Yes, sir.
Question. Where were you when the gong rang?
Ans. I was in the same place.
Question. Were the other men on board frightened?
Ans. I don't know.
Question. Did a great many run off?
Ans. I did not see any run off.
Question. Where was Travis?
Ans. I don't know.
Question. Have you ever talked to anybody about the testimony you are giving in this case?
Ans. No, sir; never to anybody.

Re-examined by Mr. BILLINGS:

Question. You stated that the cotton fell and the knee was broke; state whether or not the cotton broke the knee.
Ans. I could not tell; I do not know whether the cotton broke it or the running in of the Sabine broke it.
Question. Which boat struck the other?
Ans. I think the Sabine struck, from the way it was.
Question. Did you see the hole afterwards?
Ans. I saw the planks where it was broke up on her; at daylight I saw them.
Question. And there is where you think the Sabine hit her?
Ans. Yes, sir.

CHARLES J. DUFFEY, sworn for the claimants and cross-libellants, says:

Examined by Mr. BILLINGS:

Question. State your age.
Ans. Between thirty-five and thirty six years.
832 Question. What is your profession?
Ans. A pilot on the river.
Question. How long have you been a pilot?
Ans. I have been piloting since the winter of 1860, and I was on the river three years previous to that.
Question. On which boat are you now piloting?
Ans. On the Richmond.
Question. Were you present on the boat when the collision took place with the Sabine?
Ans. Yes, sir.
Question. State what took place on that occasion, that you observed.
Ans. I was on the watch at the time of the collision; previous to the collision I had gone up round Nine Mile Point to the plantation called Kennedy's, which is one mile above Nine Mile Point, and then made a long crossing over towards Twelve Mile Point; when about half way up the river from Kennedy's house to Twelve Mile Point, and I suppose not over a hundred and fifty yards of the right shore going up, or geographically the left, I discovered the signal lights of a steamboat coming round Twelve Mile Point; I then blew my whistle, after proceeding up the river a short distance, just to notice whether or not it was a boat; when I first discovered that it was a boat I was a mile off; that is, as near as I could judge; but by the time that I did satisfy myself that it was I was about half a mile; I then blew one long, loud whistle, showing that I wished to take the point side, or the left bank,

and she replied by two whistles; after she had blown her two whistles I pulled in still closer to the shore, nearing it all the time until I stopped my engines, and backed her; at the time I had stopped and my engines backed I suppose I was within two hundred and fifty or three hundred yards; then the gongs rang; and that is all I can tell.

Question. What was the first thing you could see and that you noticed?

Ans. The first thing that I could see and notice was the lights of that boat coming around the point.

Question. And what did you then do?

Ans. I blew my whistle.

Question. How many times?

Ans. Once.

Question. What happened then?

Ans. She answered by two.

Question. And then what did you do?

833 Ans. Stopped my engines and set her to backing; then rang the gongs for her to back.

Question. And then came the collision?

Ans. No, sir; the whistles were exchanged again; I blew the whistle again and she blew hers almost at the same time; then almost immediately after that the collision occurred.

Question. What was the position of the Richmond and the route of the Richmond with reference to the ordinary and proper route of an ascending steamboat?

Ans. The Richmond was in the proper place for an ascending steamboat.

Question. And in the usual place?

Ans. Yes, sir; in the usual place.

Question. If the Sabine had complied with your signal, which meant, of course, to go to her right, would there have been any collision?

Ans. No, sir; for she had a wide river on the opposite of her, to her right coming down.

Question. Almost the entire width?

Ans. Yes, sir.

Question. Was there any reason that you knew of why a boat coming down the river at that point should not have complied with your signal and gone to the right?

Ans. There was no just reason.

Question. Was it possible for you, after you had blown your whistle and perceived the Sabine, to have changed your course—gone to the left and avoided that collision?

Ans. No, sir; it was not.

Question. What would necessarily have happened if you had changed your course to the left?

Ans. The Sabine would have been struck further along, through her middle.

Question. The Sabine or the Richmond?

Ans. The Sabine would have been struck then right along through her middle.

Question. State as nearly as you can the position of these two boats at the time of the collision.

Ans. At the time of the collision?

Question. Yes.

Ans. At the time of the collision, I could draw it for you better than

any other way; as near as I can judge, it was right angles from the pilot-house.

Question. First state the position of your boat, and at what angles you were turned towards the shore.

Ans. We were heading towards the left bank point shore; heading in under the point, and the Sabine seemed to come round the full shape of the point, and seemingly to me rounded it; that is the position she seemed to me from where I stood, for just before she struck she looked as if coming square into the Richmond's side; I actually thought she was going to strike the Richmond as far back as the derricks.

834

Question. How far was the Richmond from the left shore?

Ans. At the time of the collision?

Question. Yes.

Ans. As near as I can judge she was within about a hundred yards.

Question. She was brought on there so near in order to go further to her right to avoid the Sabine?

Ans. Yes, sir.

Question. And in what direction was she in, with reference to the shore, at right angles or an acute angle?

Ans. I could hardly call it a right angle; it may have been one.

Question. Turning in towards the shore?

Ans. Yes, sir.

Question. But not at a right angle?

Ans. No, sir.

Question. In what direction was the Sabine going, with reference to the Richmond, when the shock occurred?

Ans. I think that she was going in very near the same angle, but just the reverse, coming in across us, she heading down the stream and we up.

Question. At what angle did she strike the Richmond?

Ans. I should think very near at right angles.

Question. Had the Richmond the proper watch?

Ans. Yes, sir; so far as I am aware.

Question. The proper lights?

Ans. Yes, sir.

Question. You are perfectly familiar with what the law requires?

Ans. Yes, sir.

Question. Were they the proper signal lights?

Ans. Well, sir, I could not see the signal lights; I saw the signal lights of the Sabine, but on our boat I could not see them, because the pilot-house is standing almost up to the chimneys.

Question. Can you state whether the Richmond, at the time of the collision, was moving or stationary, or was moving backwards?

Ans. I cannot state she was moving either way, but to the best of my judgment she had stopped herself dead still; that was her only chance; the only chance I had to judge was after the shock.

835

Question. What leads you to that conclusion?

Ans. Just immediately after the shock the Richmond seemed to be going back from her.

Question. Which would not be the case if she had a forward motion?

Ans. No, sir; she would have kept on into the shore.

Question. This interval of time from the ringing of the stopping bell to the ringing of the gong—what conclusion would that lead you to, supposing these orders to have been complied with; would that or not confirm this opinion you have just expressed?

Ans. Yes, sir; I should judge she would have had sufficient time to have killed her headway; I do not say she had sternway.

Question. So as to have no forward motion?

Ans. Yes, sir.

Question. Now, as to the amount of damage that was done to the Richmond?

Ans. I could not exactly state the amount of damage that was done to her; I know she returned to the city for repairs; she had to have a dock placed under her; she was leaking; and to have a new stem put in from her five foot mark; her stem was twisted very considerably, and left a big space between what is called the hud-ends of a boat.

Question. What would have been the usual and prudent route for a steamer coming down the river at Twelve Mile Point to have pursued?

Ans. Coming wide around, not nearer the point than the middle of the river at the closest; and at night time, when there is nothing in the way at all, in the bends.

Question. Not nearer than the middle of the river?

Ans. No, sir; not nearer the point than the middle of the river.

By Mr. VOORHIES:

Question. Did the collision take place above or below the point?

Ans. It took place under the point.

Question. What distance under the point?

Ans. I should judge under the point, about five or six hundred yards from the main part of the point.

Question. When you first saw the Sabine, how far on the other side of the point was she, about?

Ans. How far on the other side of the point?

Question. Yes.

Ans. I should judge she was out from the point; she was running the same point as I was.

836 Question. How far?

Ans. I should think, when I saw her, she was on the point; she is so low that I could not see her beyond the tops of the willows.

Question. Is that a willow point along there?

Ans. Well, there are some willows under the point.

Question. Is it a sharp point there?

Ans. Rather sharp.

Question. Could you have seen the Sabine over six hundred or a thousand yards on the other side of the point from where you were?

Ans. No, sir; I do not think I could.

Question. Where was she when you first heard her whistle?

Ans. I should think she was on the point; I suppose she rounded wide about the point when I first saw the lights.

Question. Would you have heard the whistle of the Sabine if she whistled before she got to the point?

Ans. Yes, sir; if she whistled loud I could hear her.

Question. Did you hear her whistle?

Ans. No, sir; only in answer to mine.

Question. How far from the point were you when you whistled?

Ans. I suppose from the point I must have been between eight and nine hundred yards from the boat.

Question. Well, but from the point?

Ans. I was a little over that when I whistled.

Question. A little over what?

Ans. Nine hundred yards; what I mean from the point is where I

would go from the point in going up stream; I do not mean that I was nine hundred yards from the shore.

Question. But you were one hundred and fifty yards from the shore; what distance was it going to the point itself, without reference to a boat coming down, from where you whistled up to the point?

Ans. I do not suppose that it was over nine hundred yards; if I went up that space I would have been on the point.

Question. When you first blew your whistle were you making for the shore or going up stream?

Ans. I was going towards the left bank.

Question. Did you turn the boat up stream after that time?

Ans. I turned her towards the shore.

Cross-examined by Mr. EGAN:

Question. When did you ship on the Richmond?

837 Ans. I have been on the Richmond—I think I went on her a year ago last October; I would not be positive about the month.

Question. In what capacity?

Ans. As pilot.

Question. Where were you shipped?

Ans. In St. Louis.

Question. Is she an easy boat to steer or difficult?

Ans. She is a very good boat to steer on mark twain and deeper water, and she is like all big steamboats; none of them will steer well on much less than that or snoal water.

Question. Has she not frequently run away with her pilot?

Ans. Not if he watches her close.

Question. Has she not done so?

Ans. She has; but never since she has been in this man's hands nor while I was on her.

Question. Had she not run into the bank sometime previous to the collision?

Ans. I believe she did.

By Mr. VOORHIES:

Question. Is the running away with the pilot of your own knowledge?

Ans. No, sir.

By Mr. EGAN:

Question. Was her stem not injured previous to the collision?

Ans. To the best of my knowledge, it was not.

Question. Do you not know that it was sprung, and caulked with large ropes?

Ans. Sprung, and caulked with large ropes?

Question. Yes.

Ans. Well, I do not know of its being caulked; but I think it is usual to put big pieces in any hud-edge; I believe it is usually done.

Question. Were you the only pilot on that boat besides Mr. Cayton?

Ans. Yes, sir.

Question. They never had any other pilot except either of you for twelve months previous?

Ans. No, sir; nor nobody to assist us. We allow nobody to touch the boat at all, and we take no learners or steersmen from St. Louis to New Orleans at present.

Question. Do you know whether the bow of the boat—the planks at the bow—were sprung previous to the collision?

Ans. I do not know of any plank being sprung previous to the collision.

838 Question. Do you know whether they were broke after the collision?

Ans. I know that a plank was taken out of her after the collision. I saw a plank nailed on her after she came to the wharf.

Question. That was on the bow?

Ans. On the larboard bow, after the stem of the boat.

Question. How long was the plank?

Ans. I could not tell exactly how long. I suppose it was seven or eight feet long, as near as I could trust my eye.

Question. Did you examine the bow of the Richmond after the collision?

Ans. I looked at the bow of the Richmond, and saw it was sprung from the larboard over to the starboard.

Question. Did you blow that whistle that night at the cars?

Ans. Yes, sir; I did.

Question. Why did you blow that whistle at the cars?

Ans. Because I thought it was a steamboat descending the river.

Question. Where were you when you blew that whistle?

Ans. I had just left Kennedy's house, going out in the river; and had it been a boat coming down where I should hear she would have been hardly in the bends. What made me think she was a boat was, because I saw her light coming down. The wind was blowing so strong and the cars were so many that I could not hear her sound.

Question. When you saw that light, you knew it would pass you to the right?

Ans. Yes, sir.

Question. Did it appear to be in the river?

Ans. Yes, sir. At first I thought it was a steamboat; but when I saw the light pass the timber, I knew it could not be a steamboat. It passed the timber between the river and the train. The timber was between the track and the river.

Question. Had you been bearing out from the shore at the time you saw it?

Ans. Yes, sir; just previous to hearing it.

Question. How long after that was it that you blew another whistle?

Ans. Well, I suppose it must have been over three minutes. May be longer than that.

Question. Where had you the boat at that time?

Ans. About half way from where I left the shore, at Kennedy'shouse, to Twelve Mile Point, as well as I can judge. I could look out on the side and see the light of Mr. Marshall's house, and I had got on

839 probably over three hundred and fifty yards from the left bank of the river, geographically.

Question. Did you blow any more whistles?

Ans. You mean after I blew for the Sabine?

Question. Yes.

Ans. Yes, sir; I blew another whistle.

Question. When?

Ans. When we were within, as near as I can judge, two hundred yards I should say from the boat. May be not that far, and may be two hundred and fifty; that is, from the time I collided.

Question. Did not the Sabine blow the first two whistles?

Ans. She did not. I saw the Sabine's light when she came round the point. She blew no whistle, because if she did the wind would have en-

abled me to hear it. It was on the shore that I was on, and as she came around the point, the wind directed to me, I heard the first whistles she blew for the Richmond—two loud ones.

Question. When the collision took place you were heading into the left bank?

Ans. Yes, sir.

Question. How long had you been heading that way?

Ans. From the time I left Kennedy's house.

Question. How long had you been—not from the time you left Kennedy's house?

Ans. I suppose I had been heading that way some five or six minutes—more than that, or eight minutes, before the collision occurred; but say six minutes.

Question. How far is Nine-Mile Point to Twelve-Mile Point?

Ans. Well, nine from twelve leaves three. It must have been three miles.

Question. How far is it from the place you commenced to cross to Twelve Mile Point?

Ans. I should judge it was two miles.

Question. How fast was your boat going?

Ans. To the best of my judgment, I suppose she was going a mile in six minutes. I do not know that she was making that.

Question. About how many miles an hour?

Ans. About ten miles an hour. I could not judge. I had no chance to know her time from the time I left the elevator.

Question. What did the two whistles of the Sabine indicate?

Ans. Indicated that she wanted the left-hand side of the river.

840 Question. Then the two boats would pass each other on the right to starboard?

Ans. I would pass to the left of her if I answered her whistle, as she said, and she would pass to my right.

Question. You say you have been a pilot on the river since 1860?

Ans. Yes, sir.

Question. Are you familiar with the rules governing steamboats?

Ans. Yes, sir.

Question. What does two whistles indicate?

Ans. To the left.

Question. How would two steamboats meeting each other pass, the signal given being two whistles?

Ans. The up steamboat would take the left-hand side, and the down steamboat would take her left-hand side.

Question. How would the two boats pass with regard to each other?

Ans. The down steamboat would pass to the right of the boat going up; that is, she would be on the right-hand side of her, and she would pass to the right of the up steamboat going down.

Question. Then, they would pass each other on the starboard?

Ans. Yes, sir; that would be the proper way to say it; it would be the starboard side of each boat.

Question. Did not the signals of the Sabine indicate to you that she desired to go on the starboard?

Ans. She did; but my whistle was blown first.

Question. Has not the descending boat the privilege?

Ans. She has when there is anything to keep her from changing the whistle. If there is no cause to change the whistle; if she has got the channel of the river, she has a right to change.

Question. When you spoke the Sabine, was she not coming down the river.

Ans. She was quartering in towards the shore.

Question. What distance was she from the shore?

Ans. About a hundred yards distance when we struck.

Question. How else could the Sabine have got to that shore without danger?

Ans. I suppose she could have went right against the shore; very near it. She did finally go in there, and sunk there. She did not go right into the shore, but about half the length of herself.

Question. Where did the Richmond hit the Sabine?

Ans. I do not know.

841 Question. Were you looking at the time?

Ans. I was looking at the time.

Question. Did any cotton fall from the Sabine on to the Richmond?

Ans. Yes, sir; so I saw there; I could not see it from where I was in the pilot house; the texas of the Richmond runs out so far that you could not see it at all; I am satisfied that the cotton must have fallen upon her; I saw the cotton falling between the Richmond and the Sabine into the water.

Question. Who was on the watch besides yourself?

Ans. The mate.

Question. How do you know that?

Ans. Because I heard him halloa from the roof of the Richmond.

Question. What part of the roof?

Ans. Well, I should judge he was on the larboard side of the Richmond, forward.

Question. What is his name?

Ans. Robert Coates.

Question. How long has he been on the boat?

Ans. He has been on the boat this trip from New Orleans, but had been on the boat previously, long before I was on her; since Capt. Green had her.

Question. What did he halloa?

Ans. I could not hear what he said; the wind was blowing very hard.

Question. How did you know it was he?

Ans. Because I could distinguish his voice; I could not distinguish his words, I mean, because the distance is too long to holloa on a windy night; in fact, Captain Green halloaed to me three times before I could hear him.

Question. Did you hear him?

Ans. No, sir; I cannot say that I did hear him; I told you before that the texas went out so far, that unless a man stood very well aft on the roof up that way from the chimney to the forward end of the roof, you could not hear him; the texas runs out well forward the pilot house; I should judge it was near a hundred feet long; she is not built like any other boat with regard to the texas.

Question. How were the lights placed on the Richmond?

Ans. Well, that I cannot say anything about, because I cannot see them from the pilot house.

Question. What kind of a night was it?

Ans. It was not what you might call a right dark night; it would alternate between what you would call it a cloudy night, and then come out clear again.

842 Question. Was it blowing hard?

Ans. Blowing pretty hard; a rather windy night.

Question. When did you come on the watch?

Ans. I came on the watch when we were leaving the elevator, about one o'clock; we took a lot of sugar there, and my watch did not call me until we were ready to go.

Question. How fast was your boat going at the time of the collision?

Ans. I do not think she was going at all at the time of the collision; I think she stopped dead still, as well as I could judge; and what I judge from is, that she went back the moment she struck; I think she had sternway on before she struck.

Question. Would not a collision with an object like a boat have been likely to have checked it?

Ans. No, sir; I think she would have went on past her.

Question. If she struck that object, and have gone through her, would it not have been likely to have stopped her headway?

Ans. No, sir.

Question. If her headway was stopped by coming in contact with another object, would she not come back in the same way that she did?

Ans. No, sir; I do not think she would; I think it would have knocked her down the river.

Question. What would have prevented her from coming back?

Ans. She would have hit the bank.

Question. If she had gone that way into an object between her and the bank, and had her headway stopped, would it have hit the bank?

Ans. Not if she had her sternway, she would not.

Question. Would she not then come back with the same facility that she did?

Ans. Not unless she was backing.

Question. Was she backed?

Ans. She was backed, and had been backing for some time; I do not know how long, but I should judge long enough to have stopped her headway dead.

Question. In what distance could her headway be stopped?

Ans. I cannot tell, because I do not know how many revolutions she makes; she is a low pressure boat, and we can only judge by the water.

Question. From your position in the pilot house, could you see the water?

Ans. No, sir.

843 Question. Could you see any object that would indicate to you whether she was going ahead or backward?

Ans. Not previous to the collision.

Question. Then you could not state, as a positive fact, that her headway was stopped?

Ans. No, sir; but I think it was stopped; all I judge from was, that she went back the moment she struck the boat.

Question. And she would not have done that if her headway had been stopped by another object, not including her own force?

Ans. She would have gone back, because her engines were backing.

Question. How far from Twelve Mile Point was it that the collision occurred?

Ans. We were under Twelve Mile Point when the collision occurred; under the point.

Question. How far under the point?

Ans. I should judge about four or five hundred yards under the point, as well as I can judge.

Question. How deep is the water at Twelve Mile Point?

Ans. Well, sir, I never sounded it.

Question. How close could a boat go to Twelve Mile Point?

Ans. To get up on the bluff part of it, she can go close against the shore.

Question. At this stage of water?

Ans. Yes, sir; because it is a bluff bank there, but underneath, further down on the flat shore, she could not have done it; she would have to stand off.

Question. How far?

Ans. Two widths.

Question. And what depth of water?

Ans. I never sounded it; we may imagine it is a hundred feet deep, for I never heard of any man sounding it.

Question. How far could you have seen the Sabine, before you got to the point?

Ans. I did not see her at all before she got there.

Question. Is there any obstruction on the point?

Ans. Yes, sir; there are some willows under the point.

Question. How high are those willows?

Ans. I never measured them.

Question. Would they have prevented you, in the position you occupied in the pilot house, from seeing the light from the chimneys of another boat descending?

Ans. I think they would.

844 Question. How high were they from you when you were in the pilot house of the Richmond?

Ans. I do not know.

Question. About how many feet?

Ans. I do not know the height of the boat.

Question. How high are the chimneys of descending boats?

Ans. They vary; there is a difference in some boats of forty or fifty feet; it depends on the steamboat.

Question. How high above the water are the chimneys?

Ans. It would depend on the boat.

Question. What would be the general height?

Ans. It depends upon the size of the boat.

Question. How high would the Sabine's chimney be?

Ans. I do not know how high the Sabine's are from the water.

Question. Have you any idea?

Ans. No, sir; not in the least; if I knew how deep the boat was loaded, and how far it was from the water to the top of the chimney, I could then tell you.

Question. How far was the Sabine from the Richmond when you saw her?

Ans. I suppose very near a mile, as well as I could judge after night.

Question. How far was she from you when you gave the signal?

Ans. I suppose half a mile.

Question. How long after you gave the signal was it that she answered?

Ans. I could not say how long, but a very short time; just about the usual time that steamboats take to blow whistles, so as to let the sound die away from the signal from the first boat.

Question. Was there anything to prevent you from giving her the place she asked for?

Ans. Yes; I pulled my boat towards the shore, and if I tried to reverse her she would have struck the Richmond along about the middle, as well as I can judge; I had given my boat the wheel to the starboard side, and by the time I would have got her checked and get her strained away from the Sabine she would have probably hit the Richmond on the starboard.

Question. And yet she was quartering in your way to the left bank of the river?

Ans. The Richmond?

Question. No; the Sabine.

Ans. That is the way she struck us; I speak of the Sabine's position when the two boats collided.

845 Question. Where was the Sabine when the signal was given?

Ans. I know she was under the point.

Question. How far from it?

Ans. I should judge off from the shore. I think it was not over two hundred yards from the shore; she was closer than ever I saw a boat.

Question. Was there not abundance of room for you to have gone to the starboard?

Ans. If their signal had been given first there was; I gave my signal first for the point side, expecting that she would go as descending boats go, down the middle of the river and not round the point.

Question. Are there any rules on the river to prevent descending steamboats from taking this side?

Ans. There is no rule to prevent them, but there is a custom that ascending steamboats will always take the point side, on account of the slack water; and, as a rule, descending steamboats will stay in the middle of the river, or near the bend side.

Question. Was there any necessity for your going into the slack water?

Ans. Yes, sir; for the Richmond there was, on account of making speed.

Question. Was the water high?

Ans. Well, it is what you call the medium stage.

Question. Is not the river pretty much slack all over?

Ans. No, sir; there is strong places in it; the middle of the river is generally looked upon as the place where the current is strongest; round about the point it is supposed to be slack.

Question. From your position in the pilot-house of the Richmond, could you see her bow?

Ans. Which bow?

Question. The bow of the Richmond.

Ans. No, sir.

Question. About how far does your view extend beyond the bow?

Ans. That is a pretty wide question; it might have extended ten or twelve miles up the river.

Question. Well, how far?

Ans. Well, drawing a line from where I stood and let it pass by the jackstaff, I think it may be fifty feet in front of the bow, or a little more.

Question. Did you see the bow of the Sabine?

Ans. No, sir; I seen her jackstaff.

Question. Then you could not say whether the Richmond struck the Sabine or the Sabine the Richmond?

Ans. I don't know; I can only judge from the position that she
846 came into the Richmond and the way she was heading into her, and on seeing her jackstaff beyond ours on the starboard bow.

Question. Did you look to see whether it had passed?

Ans. I did.

Question. Were your inquiries directed particularly to that fact?

Ans. I should look to see where she was going to strike us.

Question. And could not see the bow?

Ans. No, sir; it was loaded down; I could see the jackstaff.

Question. How did that appear?

Ans. On the larboard side of the Richmond; it looked to me a little aft of the Richmond's jackstaff.

Question. How far were you from the jackstaff of the Richmond?

Ans. I do not know exactly what the distance is.

Question. Were you half the length of the boat?

Ans. No, sir; I would not think it half the length of the boat; I think, though, that if I have been rightly informed, it is one hundred and twenty or one hundred and twenty-five feet; that is my idea of what it is; it may be more than that, for she is three hundred and fifty feet long, and her pilot-house is pretty well aft upon her.

Question. How big is the jackstaff?

Ans. I never measured that.

Question. About how big?

Ans. I could not say.

Question. What is the usual size?

Ans. There is no usual size; they make them all sizes.

Question. Are they five feet through or five inches?

Ans. I know they are not five feet.

Question. About how much is it?

Ans. I am not a carpenter, and do not measure these things.

Question. You have been following the river for the last five years, and do not know what size that jackstaff is?

Ans. No, sir; nor will you find twenty men on the river that knows that, except those men employed in making them.

Question. How high was the Richmond out of the water?

Ans. I could not tell you that; I know she was drawing very near about seven feet; I don't know how high the boat is.

Question. Is she much higher than the Sabine?

Ans. Well, I should say she was; that is, if the Sabine was loaded.

Question. I mean that her lower deck would be considerably
847 above the lower deck of the Sabine when loaded?

Ans. Yes, sir.

Question. Four or five feet?

Ans. No, sir; I don't think it was that much.

Question. Three or four?

Ans. Do you speak of about the middle or at the stem?

Question. I speak of a little aft of the bow?

Ans. Well, I suppose that it was; I will say four feet, and would not be under it.

Question. How long is the Richmond?

Ans. Three hundred and forty feet.

Question. How many tons burden is she?

Ans. Well, on that I could not exactly inform you.

Question. About two thousand?

Ans. That is what she is supposed to be.

Re examined by Mr. BILLINGS:

Question. You have stated that the Richmond was pursuing the usual and proper course on this occasion, and you have stated that the Sabine

was not taking the usual or the proper course; will not you give now—you have given it in part, but I want your reasons for saying that the course or route that the Richmond pursued on this occasion was the proper one, and then we will come to the Sabine?

Ans. Well, sir, it is customary for ascending steamboats to always run the point side or shore, and the Richmond was pursuing that course, running the point shore.

Question. What is the reason for taking the point shore?

Ans. On account of the easy or slack water that is under the point, and that of course is not so far; you can turn the point quicker.

Question. Now as to the Sabine not taking the proper course, I want to ask you simply this question; was it not more prudent in the night time for a vessel descending the river, coming round the point, to be at least in the middle of the river?

Ans. At least, if not further away from the point than the middle, nearer the bend than the middle of the river.

Question. And was it prudent for the Sabine to have pursued the course she did?

Ans. No, sir; it was not.

848 Question. And why not?

Ans. For this reason, that her head coming round under the point would catch in the slack water, and probably if she did not mind herself she would run into the bank.

Question. Suppose she should meet another steamer ascending, how then?

Ans. Then there would be a chance of a collision.

Question. Now, something was said by Mr. Egan about this running away business; was or was not the Richmond so constructed and so manned in every respect as to have been manageable?

Ans. I should say yes, sir.

Question. There was no trouble about her manageability?

Ans. No, sir; she was steady that night as well as ever I saw a steamboat; no trouble at all to steer her.

Question. If I understand you, this whistle that was blown upon the occasion of the cars, was a whistle which you blew from abundance of caution?

Ans. Yes, sir.

Question. But you do not count that with the whistle which you speak of in your direct examination?

Ans. No, sir; the Sabine was not in sight to me at that time.

Question. If the Sabine had blown any whistle before the Richmond blew hers, is there any doubt in your mind about your having heard this whistle?

Ans. There is none in the least; I am satisfied that she never blew any whistle until after I blew mine when in sight of the Sabine.

Question. You are clear upon that point?

Ans. I am clear.

Question. And you were led to that conclusion from what you stated; from the nearness of the boats, the way the wind blew, and the readiness with which you heard the whistles when she blew them?

Ans. And the loudness of the sound of her whistles.

Question. When she did blow her whistles, was it or not too late for you to change the course of the Richmond to the left so as to have avoided the collision?

Ans. I think so; there was no chance to have avoided the collision;

the only difference would have been that she would have struck us down further.

Question. You are clear upon that point?

Ans. Yes, sir; I am.

849 Question. Now, although you did not see this striking, still, from the situation of the boats, from the appearance of the Richmond after the collision, which boat, in your opinion, struck the other?

Ans. In my opinion the Sabine struck the Richmond.

Question. Whereabouts did she strike the Richmond?

Ans. All I can judge from was what I seen after the Richmond got down to the landing; I should judge she struck the Richmond on the larboard side, for the larboard knee was broken in and the plank broken, and the stem started off from the larboard side, showing that she struck us on the larboard.

Question. You spoke something about having knew of the boat running away; do you know that of your own knowledge?

Ans. Not since I have been on her.

Question. Has any such thing happened since you have been on the boat?

Ans. No, sir; not so any damage occurred from it.

Question. Has she or not been a boat that has been readily managed with proper skill?

Ans. Yes, sir.

Question. So far as you were acquainted with her?

Ans. Yes, sir.

Recross-examined by Mr. EGAN:

Question. Did not the cotton that fell from the Sabine break the knee of the Richmond?

Ans. No, sir; I do not think it would break it.

Question. How many bales fell?

Ans. I am not able to tell that.

Question. Did you see any cotton on her?

Ans. No, sir; because I was in the pilot-house all the time while we were trying to force her ashore.

Question. Was not the knee forced down with the guards?

Ans. I could not say exactly how it was done; I could not say what gave it cause of going that way; but when I saw it it was bent in towards the middle of the boat.

Question. The nosing of the guard was not injured?

Ans. I did not notice that it was; all I noticed was the knee; I noticed that from the boiler deck.

Question. If the Sabine had struck the Richmond, would not the nosing of the guard have been injured?

Ans. Not if she went underneath.

850 Question. Could she go underneath?

Ans. I think she could.

Question. Did she hit underneath?

Ans. I think she hit the Richmond's hull or stem.

Question. Did you see where it hit?

Ans. I saw the plank where it was struck, and the stem twisted.

Question. If the Sabine had hit the Richmond underneath the guard, would it not likely break more than one plank in the hull?

Ans. Well, I don't know; the Richmond is very near solid there.

Question. How far aft of the stem was it that this plank was broken?

Ans. Well, the length of the break was about seven or eight feet from the stem.

Question. How was the plank broken?

Ans. I did not see until it was taken out.

Question. Where did it appear to have been struck to break it?

Ans. I did not see that; there was a piece underneath a very peculiar break, as I saw it.

Question. You did not see the broken plank?

Ans. I saw it as it was taken out and thrown on shore.

Question. Would not the stem of the Richmond have been forced to the starboard, as you say, if she had struck the Sabine when going up the river?

Ans. I do not think it; there would not have been a scar left on it.

Question. Did you examine and see whether there was a scar?

Ans. I did not; I did not see any scar upon her; the only mark on the Richmond is on the larboard side.

Question. The nosing or guard of the Richmond was not broken at all?

Ans. I did not notice that it was.

Question. This knee was the only thing that was broken?

Ans. Yes, sir; the only one.

Question. A quantity of cotton falling from a great height would be likely to break it?

Ans. It might have done it, but I do not think it could, because knees are very stout; I think the knee was broken from the under side, and not from anything striking it above.

Question. Did you see any indication of anything having struck it from underneath?

Ans. Yes, sir; I saw it was jammed.

Question. That would be produced by a great weight falling
851 upon it?

Ans. Well, I don't know whether the weight would have been sufficient.

Question. Could it have been broken by a weight falling upon it?

Ans. If the weight was heavy enough it might.

Question. To what distance did the cotton of the Sabine fall?

Ans. I do not know.

Question. Is not the Richmond a pretty old boat?

Ans. I do not know; the captain can tell you her age; about three years, I think.

Question. Is she not closer to seven?

Ans. Well, it depends upon how you take the floor; but I say, when we speak of seven, I know she is not an old boat.

Question. Was not the knee a little rotten?

Ans. I do not know; I never examined it close enough.

Question. Do you think?

Ans. Well, I am not judge enough of her to tell that; it is not my business.

Question. What object could have forced the knee in the way it was except from above?

Ans. Something hitting it underneath on the side.

Question. Would that have the effect of forcing it through the guard?

Ans. It did not force it into the guard; it forced it into the mid-

dle of the boat; I did not say that it forced the knee through the guard.

Question. Then was not it forced through in rising on the guard?

Ans. I did not notice that it was.

Question. How was the plank broken?

Ans. I admit that the plank was broken.

Question. How could it break except it was forced in?

Ans. Well, I don't know; it might have been this beam that broke it.

Question. And it might have been the other way?

Ans. It might.

Question. Could you imagine any part of the Sabine that could have broke that piece and drove it into the guard?

Ans. The Sabine, by passing underneath her and by catching the beam or bolts that the knee is made fast to, would break this knee in this position, and would break the beam too, by the Sabine passing under her guard.

Question. But you could not imagine anything that could have done it from above?

Ans. I do not say that it could not have been done; but some heavy weight might have done it.

852 By Mr. BILLINGS:

Question. You do not think the cotton could have broken this hole?

Ans. No, sir; no cotton falling from an ordinary height would break a boat's guard; she has the best guards that I ever saw on a steamboat.

EDWARD NORTH, sworn for the claimants and cross-libellants, says

Examined by Mr. BILLINGS:

Question. Were you on board of the Richmond at the time of this collision?

Ans. Yes, sir.

Question. In what capacity?

Ans. Striker on the boat; that is, assistant engineer.

Question. State what happened, as far as you know, immediately preceding this collision.

Ans. I was standing in the engine room, and the first thing I heard was one whistle blew.

Question. By whom?

Ans. By the Richmond; and the next thing was the bell ringing on the larboard side; the second engineer was standing on my foot-box at that time; he stopped my engine and went right up on the foot-box, and then he came down on the other side.

Question. Then what happened?

Ans. I went aft on the foot-box and the bell rang to come ahead again; I went ahead and made about two or three revolutions ahead, and the next thing that happened was, both gongs rang to back her; there is one bell for stopping, and the gong to back her.

Question. Then the gong rang?

Ans. Yes, sir.

Question. Then you backed her?

Ans. I did; we put on a cut-off, and she backed right away; I was standing on the foot-box.

Question. How long did she back?

Ans. I could not tell; I suppose she made four or five revolutions back.

Question. And then what happened?

Ans. Then she collided with the other boat; that is all I know; I never saw the boat until she swung around the point.

853 Question. What was she doing at the time of the collision?

Ans. She was backing; the throttle valve was a point open. We had on forty pounds of steam.

Question. She was backing, then, with full power of steam?

Ans. Yes, sir; I made the mate take notice of her backing, and heard her timbers cracking; that is before she came into the other boat; she backs very strong, too.

Cross-examined by Mr. EGAN:

Question. How many whistles did the Richmond blow?

Ans. She blowed one long whistle.

Question. When was that? You do not know anything about the time?

Ans. No, sir.

Question. Was that the only whistle she blew?

Ans. That was the only whistle I heard.

Question. If she blew any more, would you have heard it?

Ans. I would, for I paid attention.

Question. Were you on watch at the time?

Ans. Yes, sir.

Question. When did you come on the watch?

Ans. At the elevator, at twelve o'clock.

Question. Which engine were you at?

Ans. The larboard engine.

Question. Who else was with you?

Ans. Nobody else at that engine but me.

Question. Where was the second engineer?

Ans. On my foot box, at the time the bell rang.

Question. Who was at the other engine—the starboard?

Ans. The other striker, I suppose. I do not know where he was. I did not see him. I was not paying attention where he was.

Question. How long after the whistle was blown was it before the bell was rang?

Ans. I do not know how long; it wasn't but a very short time.

Question. Did you hear the Sabine whistle?

Ans. No, sir; I did not.

Question. What did the bell ring for?

Ans. To stop her on my side.

Question. What did you do?

854 Ans. I did not do anything; the second engineer stopped her. I was standing at the foot of the steps.

Question. What did he do to stop her?

Ans. He jerked off the cut-off rod.

Question. What else?

Ans. That is all he had to do.

Question. How long did it then take to stop?

Ans. Well, as soon as I could take the line and hold it down.

Question. Did it step the wheel?

Ans. No, sir; she did not take any more steam, and the wheel would naturally roll over for a short time.

Question. Would it not be impossible to stop that wheel instanter; the momentum would have carried it over—the velocity?

Ans. Well, the velocity would.

Question. Do you know the meaning of the word "momentum"?

Ans. No, sir; I do not.

Question. Well, then, what was done?

Ans. On my side?

Question. Yes.

Ans. I went up on the foot box then, and the second engineer went over to his side.

Question. Then what took place?

Ans. My bell rang to go ahead again.

Question. Was this before or after the collision?

Ans. Before the collision.

Question. Then did you go ahead again?

Ans. When he rang the bell I went ahead.

Question. What was done next?

Ans. The next thing, he rang two bells to back her.

Question. Two bells?

Ans. Two gongs.

Question. Is it not necessary to ring the bell to stop before backing?

Ans. Well, ever since she run into the bank, Captain Green gave orders that whenever the bell rang it was to ship her up and back her. I only know this from hearsay.

Question. The captain gave them orders?

Ans. I found these instructions in force when I came on the boat.

By Mr. BILLINGS:

Question. Did Captain Green ever give the instructions?

Ans. Nor, sir; I do not know of Captain Green ever giving that order at all.

855 By Mr. BILLINGS:

Question. You only know that it was a rule to be observed?

Ans. Yes, sir; any man going on a steamboat up the river, and two gongs to ring, would know what it meant. She could not have been stopped any quicker if the stopping bell had been rung.

By Mr. EGAN:

Question. What was the next thing that occurred; you said the first was the bell to stop, which was done by the second engineer; then you said the next thing done was the bell rung by the pilot to go ahead. What was the next thing that was done?

Ans. After the bell rang to go ahead?

Question. Yes.

Ans. I told you two gongs to back her.

Question. How long had you been going ahead before the two gongs went?

Ans. She made, I suppose, two or three revolutions.

Question. What was done at the other engine?

Ans. I don't know about the other engine.

Question. Could you have heard whether the other was stopped, backing or what?

Ans. I could, if I had looked at it.

Question. You do not know whether it was going ahead or backing?

Ans. No, sir.

Question. What distance are the two engines apart?

Ans. I do not know how far.
Question. About how far are they apart; as wide as this room?
Ans. That is a question I cannot answer.
Question. Are they the distance of this room apart, about thirty feet?
Ans. The engine sets inside the hull.
Question. And the hull is how wide?
Ans. That is what I do not know.
Question. Is she thirty feet?
Ans. Well, I reckon twenty-five feet apart; that much anyhow; they may be more or less.
Question. If the bell or gong had been rung on the other engine, would you not have heard it?
Ans. I heard both gongs on the other engine ring.
Question. When did you hear them?
Ans. At the same time that mine rung; when mine rung, that rung.
856 Question. Did you hear any other bells ring?
Ans. No, sir; I heard no bells at all.
Question. Who was in charge of the other engine at that time?
Ans. I could not say; I suppose the other striker was.
Question. Did you see him there?
Ans. No, sir.
Question. What engineers were on the watch?
Ans. The second engineer was on the watch.
Question. Who else?
Ans. The other striker and myself.
Question. Did you see the striker?
Ans. Yes, sir; I seen him on the watch.
Question. When?
Ans. When we came down together.
Question. You did not see him afterwards?
Ans. Yes, sir; I saw him in the engine room several times.
Question. What was he doing?
Ans. Standing around like the rest of us; watching about and oiling the engine when it was necessary.
Question. Was it not the duty of the engineer to be on the foot box of one of the engines?
Ans. That I don't know. I suppose that is what he carries two strikers for.
Question. Were you sitting down or standing up?
Ans. Standing up.
Question. What were you doing standing up?
Ans. Well, I do not know; I did not take any note of it at that time.
Question. Where was the second engineer at that time; talking to you?
Ans. What time?
Question. When you first heard the bell?
Ans. He was standing on my foot box.
Question. Talking to you?
Ans. No, sir; I was down at the foot of the steps.
Question. How far was he from you?
Ans. Well, in the roundabout way, I suppose it was twenty feet.
Question. What was he doing there?
Ans. I was not looking at him. He was close to the cook-house. He might have been eating lunch.
Question. Is it not usual for a boat to have a stopping bell?

Ans. I never saw one in my life that had not one.
Question. What is the next move after the stop?
Ans. To come forward.
Question. How many bells to stop?
Ans. One.
857 Question. How many to go ahead?
Ans. One bell.
Question. What movement precedes backing?
Ans. After they ring to stop, they ring two gongs to back her.
Question. Is it not necessary to stop before backing?
Ans. Well, circumstances alter cases, sometimes.
Question. I ask you whether it is necessary?
Ans. I suppose it is necessary; you must stop an engine before you can back her; she could not back while going ahead.
Question. Why was not the stopping bell rang on this occasion?
Ans. I could not tell that.
Question. Would not a sensible man know that he had to stop before he could reverse and back?
Ans. I don't know. I suppose there was a sensible man on the watch at that time; he is supposed to be that; that is what he is paid for.
Question. Is it not his duty to have rung the stopping bell before he gave the two gongs to back?
Ans. Yes, sir; it was his duty to do that.
Question. Why did not he do so?
Ans. That I cannot tell.
Question. What were the instructions you received from the engineer with regard to the gongs?
Ans. My instructions were, when I went on the boat, to answer bells when they were rung.
Question. I ask you what instructions with regard to the gongs?
Ans. Back her.
Question. How could you back her before stopping her?
Ans. I could not do it.
Question. How long would it take to stop and reverse the engines? In what time could it be done?
Ans. Well, you could not count five until it was done.
Question. You could stop and reverse the engine, so as to throw it backwards, while you could count five?
A. Yes, sir.
Question. Within what distance can that boat be stopped?
Ans. I do not know.
Question. How many revolutions had that boat made before the collision?
Ans. I suppose four or five; maybe more; I cannot say.
Question. How many revolutions could she make in a minute?
Ans. How do you mean—backwards?
Question. How many forwards, or both?
Ans. I suppose, going up the river, she would make from thirteen to sixteen.
858 Question. How many would she make backwards?
Ans. That is according to how the boat was; if she started back, she would make more revolutions back than going the other way.
Question. In other words, the wheel could not be thrown back with the same velocity as going forwards, until it got the regular momentum?

Ans. No, sir; you would have to get the wheel under headway going back before she would make as many revolutions.

Question. The first revolution would be slow?

Ans. Yes, sir; but after that it would catch it.

Question. Then that would increase?

Ans. Yes, sir.

Question. Would four revolutions of that *vessel* be sufficient to check her headway?

Ans. I do not know.

Question. Did you feel the collision?

Ans. I did.

Question. Was your wheel going backwards or forwards at the time?

Ans. At the time of the collision?

Question. Yes.

Ans. Going backwards.

Question. Going backwards?

Ans. Yes, sir.

Question. Then how long did it continue to go backwards?

Ans. We kept on backing away from the boat.

Question. Did you see the collision?

Ans. No, sir; I did not. I could not see it from where I was.

Question. Were you backing in fifteen minutes after the collision?

Ans. No, sir; not in fifteen minutes afterwards.

Question. How long?

Ans. We were up alongside of her at that time.

Question. Were you backing for ten minutes?

Ans. I could not say how long we backed the engines.

Question. Was the collision very violent?

Ans. It did not shake me much. I do not know how it affected the rest.

Question. Did you afterwards see the cotton that fell from the Sabine to the Richmond?

Ans. I did.

Question. How much?

Ans. I do not know. I saw some lying there on the forecastle.

Question. Was it not further back than the forecastle?

Ans. I do not know.

Question. How many bales were there?

Ans. I could not tell.

Question. Did not the falling of that cotton break the knee?

Ans. I do not know that, either.

859 Question. Did you not see the knee broken?

Ans. Yes, sir.

Question. Is that all the injury the Richmond sustained?

Ans. I do not know.

Question. Did you see the Richmond injured any beyond the knee broken?

Ans. I seen it broken a little. I mean the deck.

Question. What part of it?

Ans. Right around where the knee was.

Question. That is the only place?

Ans. That is the only place.

Question. Was the nosing injured?

Ans. I did not look over her.

Question. Would you not be likely to see it without looking over?

Ans. No, sir; not without looking over the boat.

Question. How long have you been on the Richmond?

Ans. Well, I don't know. I have not the time in my pocket that I shipped on her.

Question. About how long?

Ans. About a month, or a little over.

Question. Do you know whether she is not counted a difficult boat to steer?

Ans. No, sir.

Question. How long have you been a striker?

Ans. About three years.

Question. Do you hold any license?

Ans. No, sir.

Question. Have you ever applied for a license?

Ans. No, sir.

Question. How long have you to be a striker before you can apply for a license?

Ans. That is according to how many friends you have, I believe.

Question. Have you ever worked in a foundry?

Ans. I have worked in a machine-shop, but never in a foundry.

Question. How long?

Ans. About eighteen months.

Question. How long steamboating?

Ans. About three years.

Question. Did you hear the whistles of the Sabine?

Ans. No, sir; I did not.

Question. Were you listening for them?

Ans. No, sir.

Question. Were there not considerable freight on board of your boat at the time of the collision?

Ans. No, sir. I don't know.

860 Question. Did not several negroes run back in the engine-room?

Ans. I could not say.

Question. Did not you see them?

Ans. No, sir. I was watching my engine that time, and had as much as I could do, without looking at the negroes.

Question. You do not know what the other engine was doing?

Ans. No, sir. I don't know what the starboard engine was doing.

Question. How many revolutions had you made forward from the time that you first backed until you got the second bell to back?

Ans. She made three or four revolutions ahead; then the gong sounded to back.

Question. Then how long after the gong sounded to back her was it before she struck?

Ans. I don't know how long that was.

Question. Was it almost immediately?

Ans. I could not tell you; the engine made four or five revolutions back before she struck.

Re-examined by Mr. BILLINGS:

Question. How many engineers were there on board of the Richmond?

Ans. Two licensed engineers.

Question. And the two assistants and the strikers?

Ans. That is, the two licensed engineers; the others did not have any papers.

Question. Six altogether?

Ans. Yes, sir; four assistant engineers.

Question. Two engineers and four assistant engineers, or strikers?

Ans. Yes, sir.

Question. Would it have made any difference as to the backing, whether the stopping bell rang or not before the gong sounded to back?

Ans. No, sir; it would make no difference at all; she would have backed just as soon.

Question. You would have done precisely the same thing to back?

Ans. Yes, sir.

Question. How rapidly can an engine like those of the Richmond be reversed; how speedily?

Ans. Just as soon as I can take hold of the bar, that is, the horizontal bar; just as soon as I can push that down, that reverses the engine.

861 Question. These engines are low pressure?

Ans. Yes, sir; all low-pressure engines.

Question. Something was said about the number of revolutions, the number that the wheel made; you have been examined somewhat in the minut'ae upon the state of the boat, as to how it was moving; whether it was moving in the direction you sought; then to the fact did it move, and where it was moving, or whether it was moving in an opposite direction. Now, if she had been going forward and making a certain number of revolutions, when she would be backing would she go as many as before?

A. No, sir.

Q. Do you know anything about the damage to the Richmond?

Ans. No, sir, I do not, only the knee.

Question. As to what happened after the colliding, what is the reason that you cannot tell what A, B and C were doing; what were you doing that prevented you from knowing?

Ans. I was backing my engine and watching it.

JAMES FARLEY, sworn for the claimant and cross-libellants, says:

Examined by Mr. CAMPBELL:

Question. Were you watchman on the Richmond?

Ans. Yes, sir.

Question. At the time of the collision?

Ans. Yes, sir.

Question. With the Sabine?

Ans. Yes, sir.

Question. Where were you when you heard the first whistle of the Richmond?

A. I was going through the hold, and was coming that time amidships, quickly coming up out of the hold, when I heard the Richmond whistle.

Question. What was the next thing you heard?

Ans. I studied a little while and walked round the engine room, and heard two more whistles, which I supposed were from another boat; and the next thing I heard was the backing gong.

Question. Of what boat?

Ans. The Richmond. I rushed out forward, and thought the boat

was going to land, and made my way out to get a torch. I thought the boat was going to land; but when I heard the backing bells I ran
862 forward right away, and saw the Sabine coming right across the river, with her head pointing to the right-hand shore. She was coming from the opposite side, across our bow. I thought maybe, perhaps, she was within two or three hundred yards ahead of the Richmond. I thought they might miss, for at the same time the Richmond was backing.

Question. You say she took a sheer right across?

Ans. Yes, sir, coming across the river, as near as I could judge. Well, the first thing I knew I saw they were not going to miss; she struck the Richmond on the larboard guard, and the cotton fell over on the Richmond's guard-bow. That is all I could see, and that is all I know.

Question. I understand you, then, to say that the Sabine's starboard bow struck the Richmond's larboard bow?

Ans. Yes, sir.

Question. How far aft of the stem did the Sabine hit the Richmond?

Ans. I could not say, because the cotton fell over; that prevented me from going out forward.

Question. Did the Richmond run into the Sabine, or the Sabine into the Richmond?

Ans. The Sabine ran into the Richmond.

Question. How?

Ans. Because the Richmond was backing at the time.

Question. How many revolutions back had the Richmond made?

Ans. I do not know; I am not the engineer.

Question. How do you know that the Richmond was backing?

Ans. By seeing the bank on the right hand side, for she was kind of headed in that way.

Question. How far was the Richmond from the right bank, going up?

Ans. I should judge perhaps about two hundred yards. She was close to the bank when I noticed. I could not exactly tell the distance.

Question. Do you know whether or not the Richmond had sternway when the two boats struck?

Ans. Sternway? Yes, sir; she was going back at the time they struck.

Question. Which way was the Sabine heading when she struck the Richmond?

Ans. She was heading over the Richmond's bow; she was making towards her. I should judge she was heading over the starboard side; I could not tell exactly, but I saw her a kind a crossing the bow.

863 Question. What do you mean by the starboard side—the right bank of the river, going up?

Ans. Yes, sir; that's what I call it.

Cross-examined by Mr. MARR:

Question. How far were the boats apart when you got out?

Ans. I should judge between two and three hundred yards.

Question. How near was the Richmond to the right hand shore when you got out?

Ans. I don't know; about a hundred yards; so as I could see the bank up there.

Question. Which way was her head pointing?

Ans. Towards the shore at that time; she was running that way.

Question. Where were you when the stopping bell rang?

Ans. In the engine room.

Question. Did you hear the stopping bell ring there?
Ans. I did.
Question. How long was that before the gong rang?
Ans. I do not know; I made a rush out, but when I got out I noticed the bank and the Richmond backing.
Question. Did you hear the stopping bell ring there?
Ans. I heard the gong.
Question. Did you hear any other bell but the gong?
Ans. I call it the bell, because I was always on a boat where they got them.
Question. I ask you did you hear anything but the gong; what did you hear besides the gong?
Ans. I heard the whistles.
Question. Then besides the gong you heard the whistles?
Ans. Yes, sir; I do not know as I paid much attention.
Question. How many whistles did the Richmond blow?
Ans. One whistle.
Question. Did you hear the two whistles from the other boat?
Ans. I will swear, two whistles.
Question. How many blasts did the Richmond blow?
Ans. Well, sir, she blew one that I know of.
Question. She blew one, and you heard two from the other boat?
Ans. Yes, sir; I thought she was going to land and rushed out.
Question. You are very sure that you heard the gong?
864 Ans. Yes, sir; because I made the remark that "She will be landed, and I have no light."
Question. Did you hear that gong before the blasts from the Sabine?
Ans. That's a thing I cannot say, because I rushed out forward, and she was backing when I got out there.
Question. And the boats were three hundred yards apart at that time?
Ans. I should think so.
Question. And the Richmond backing?
Ans. She was backing when I noticed the bank.
Question. Which side did you get out on?
Ans. The larboard side.
Question. Which side of the river did the larboard front to?
Ans. The left hand side going up.
Question. How far was it from where you went out to the larboard shore?
Ans. I was, perhaps, a mile or so from the larboard side, or left hand side of the river.
Question. How far forward did you go?
Ans. As far as the forward stauncheon.
Question. That is forward of the place where you go into the cabin?
Ans. No, sir; it is aft.
Question. Well, then it is about the fire-doors?
Ans. No, sir; it is not half way.
Question. Which, nearest the fire-doors or the cabin steps?
Ans. The cabin steps.
Question. Had you cotton all piled up there?
Ans. No, sir.
Question. Was it ever piled there?
Ans. No, sir.
Question. I am speaking of the space now between forward of the fire-

doors and up to the cabin steps; did you have any thing in there, between the fire-doors and the cabin steps?

Ans. No, sir.

Question. You had no coal?

Ans. No, sir.

Question. Nor wood?

Ans. No, sir.

Question. Nor cargo?

Ans. Yes, sir, inside of that.

Question. Between the fire-doors and the cabin steps?

Ans. Yes, sir.

Question. When you were out in the place that you speak of, that is, up between the fire-doors and the cabin steps, which shore did you see?

865 Ans. Why, you could see the starboard side right across, because there was a vacant place where I was standing, where we used to take in the starboard pump, right after the space.

Question. Did you look at the shore or the Sabine?

Ans. I took notice of the shore.

Question. It was the starboard shore?

Ans. After I got out forward, yes, sir; because I took notice of it.

Question. Which side of you was the Sabine coming from, the larboard or starboard?

Ans. She was coming right across the bow. How do you mean? for I explained; I mean she was coming from the larboard and making over for the starboard shore.

Question. Was she to the larboard of the Richmond then?

Ans. Yes, sir; she was.

Question. And between the Richmond and the other shore?

Ans. Between the Richmond and the larboard shore; yes, sir; I could not tell any more than that; I took notice of the boat coming across the starboaard side; that she was coming across our bow and struck our larboard—her starboard.

Question. After the collision, did you head further from the shore, or nearer?

Ans. I don't know; I was looking to get off the hands myself; but they all got off without my assistance.

Question. You do not know whether, after the collision, she got nearer to the starboard shore?

Ans. I know she got there, and the Richmond made for her to relieve her.

Question. How did the Richmond get to her?

Ans. I had other business to attend to, and do not know.

Question. You paid no attention to it at all?

Ans. I seen she made for her to relieve her and take away the passengers; that's what I know.

Question. Did you see the mate when you went out?

Ans. I seen the mate of the Richmond.

Question. Where was he?

Ans. I seen him as soon as she struck; he was down on the forecastle; that was the first place I saw him.

Question. How soon after she struck?

Ans. Directly after she struck.

Question. Did you see Captain Green?

Ans. Yes, sir; directly after she struck.

Question. You did not see them until after she struck?

866 Ans. No, sir; but I saw them directly after she struck; immediately after.

Cross-examined by Mr. EGAN:

Question. What did you ship on the boat as?

Ans. As watchman.

Question. What were you engaged at from the time you left the elevator until just previous to the collision?

Ans. I went round to see that the freight was all right: I went round as a watchman ought to do, to see things all right.

Question. Was the mate engaged in stowing the freight; yes, or no?

Ans. I do not know anything about his stowing freight; I think he done all the stowing before he left.

Question. Did you not see the freight stowing on the Richmond after she left?

Ans. I don't know; I was in the engine-room when they left, and went down in the hold after they left the elevator.

Question. How long did you remain in the hold?

Ans. I went round there until everything was correct and right.

Question. Did you remain over an hour?

Ans. No, sir; I do not think it was much more than an hour after we left until the accident; somewhere over an hour and a half; I never timed the time until I went down in the hold.

Question. Was freight being stowed on the boat?

Ans. I don't know: I can't tell that.

Question. Is this boat provided with bells?

Ans. Well, I guess she has got all the bells that are necessary; I never counted them: I was not long engaged on the boat, and do know how many bells.

Question. How long were you on the boat?

Ans. Two weeks on her.

Question. What does ringing the bell in the engine-room mean?

Ans. Well, as I told you before, I never attended to answering bells; I know when the bell rings out forward for a light: I know what that means.

Question. I asked you about the bells in the engine-room.

Ans. I do not know about them.

867 Question. Do you know whether they have any in the engine-room?

Ans. I didn't take notice of what they have there.

Question. What is the meaning of a gong when it strikes?

Ans. It is the backing gong; they have got that certainly.

Question. What do they do previous to backing?

Ans. They handle the engines and turn them back.

Question. What tells them to do that?

Ans. I suppose the gong does; I do not know; I am not an engineer, as I told you before.

Question. When you heard the gong ring did you walk or run out forward?

Ans. I do not know as I tired myself very much; I walked, or ran out.

Question. Did you run as fast as you could?

Ans. I don't know how much my speed is.

Question. What did you run for?

Ans. I ran out to see what was up; whether the boat was landing,

and wanted to get a torch; I saw the engineer when handling the engines.

Question. Where are the torches kept?

Ans. We kept some torches right back of the steps, to have them ready, and the balance right alongside of the boilers; I kept them so as to be handy at all hours.

Question. Did you go as far as where the torches were?

Ans. Yes, sir.

Question. Then you went under the cabin steps?

Ans. I had to, because when the cotton came and dipped right over on the bow I had to save myself.

Question. And you did not stop until you got to the cabin steps?

Ans. I stopped when I got to the forward braces, or stauncheon; that is, a little after the cabin steps.

Question. Why did you stop there?

Ans. Because I saw the boat coming, and I was not going to run out and get between the boats.

Question. You were scared?

Ans. Yes, sir; of course I was; I did not want to get under that cotton.

Question. How long did it take you to run from the engine-room to where you made the steps near the stauncheon?

Ans. That is a thing I do not know; I could not answer; I never timed my time; I never seen how fast I can travel.

Question. What was the distance you run?

Ans. I can run a good deal if you let me; about as far as the levee.

868 Question. I am not asking you how far you could run, but how far you did run?

Ans. I should judge about a hundred and fifty feet, may be.

Question. And you stopped?

Ans. Yes, sir; I stopped before I got out forward.

Question. Before you got where the torches were?

Ans. Yes, sir.

Question. What distance were you from the Sabine from there where you stopped?

Ans. I should judge about two hundred or three hundred yards.

Question. How many feet are there in a yard?

Ans. I should judge four or five; I do not know how many you call it down here; I don't know how many.

By Mr. CAMPBELL:

Question. Do you know how many feet there is in a yard?

Ans. No, sir.

By Mr. EGAN:

Question. How far was the Richmond from the bank at the time?

Ans. On the starboard side?

Question. Yes.

Ans. I should say may be she was a hundred yards or so.

Question. How long is the Richmond?

Ans. Three hundred and forty feet long.

Question. Was she not steering right for the bank at the time of the collision?

Ans. I did not pay much attention when I went out first; but after she struck she was headed that way.

Question. You were too much frightened to see?

866 Ans. No, sir; but I saw them directly after she struck; immediately after.

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Question. What did you ship on the boat as?

Ans. As watchman.

Question. What were you engaged at from the time you left the elevator until just previous to the collision?

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Ans. I went round there until everything was correct and right.

Question. Did you remain over an hour?

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Ans. I don't know; I can't tell that.

Question. Is this boat provided with bells?

Ans. Well, I guess she has got all the bells that are necessary; I never counted them; I was not long engaged on the boat, and do know how many bells.

Question. How long were you on the boat?

Ans. Two weeks on her.

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Ans. They handle the engines and turn them back.

Question. What tells them to do that?

Ans. I suppose the gong does; I do not know; I am not an engineer, as I told you before.

Question. When you heard the gong ring did you walk or run out forward?

Ans. I do not know as I tired myself very much; I walked, or ran out.

Question. Did you run as fast as you could?

Ans. I don't know how much my speed is.

Question. What did you run for?

Ans. I ran out to see what was up; whether the boat was landing,

and wanted to get a torch; I saw the engineer when handling the engines.

Question. Where are the torches kept?

Ans. We kept some torches right back of the steps, to have them ready, and the balance right alongside of the boilers; I kept them so as to be handy at all hours.

Question. Did you go as far as where the torches were?

Ans. Yes, sir.

Question. Then you went under the cabin steps?

Ans. I had to, because when the cotton came and dipped right over on the bow I had to save myself.

Question. And you did not stop until you got to the cabin steps?

Ans. I stopped when I got to the forward braces, or stauncheon; that is, a little after the cabin steps.

Question. Why did you stop there?

Ans. Because I saw the boat coming, and I was not going to run out and get between the boats.

Question. You were scared?

Ans. Yes, sir; of course I was; I did not want to get under that cotton.

Question. How long did it take you to run from the engine-room to where you made the steps near the stauncheon?

Ans. That is a thing I do not know; I could not answer; I never timed my time; I never seen how fast I can travel.

Question. What was the distance you run?

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868 Question. I am not asking you how far you could run, but how far you did run?

Ans. I should judge about a hundred and fifty feet, may be.

Question. And you stopped?

Ans. Yes, sir; I stopped before I got out forward.

Question. Before you got where the torches were?

Ans. Yes, sir.

Question. What distance were you from the Sabine from there where you stopped?

Ans. I should judge about two hundred or three hundred yards.

Question. How many feet are there in a yard?

Ans. I should judge four or five; I do not know how many you call it down here; I don't know how many.

By Mr. CAMPBELL:

Question. Do you know how many feet there is in a yard?

Ans. No, sir.

By Mr. EGAN:

Question. How far was the Richmond from the bank at the time?

Ans. On the starboard side?

Question. Yes.

Ans. I should say may be she was a hundred yards or so.

Question. How long is the Richmond?

Ans. Three hundred and forty feet long.

Question. Was she not steering right for the bank at the time of the collision?

Ans. I did not pay much attention when I went out first; but after she struck she was headed that way.

Question. You were too much frightened to see?

Ans. No, sir; because I knew I could save my own life if I got into the river.

Question. But you were too much frightened to pay attention to anything?

Ans. I paid some attention; watching the crew's life, as anything else; that was my object; but I could see the bank plainly.

Question. If the Richmond had not struck the Sabine, would she not have gone into the bank?

Ans. I don't suppose she would.

869 Question. Could you see the bank very plain?

Ans. Yes, sir.

Question. Was the night dark?

Ans. Well, it was not foggy, but pretty dark.

Question. Was it raining?

Ans. No, sir; but afterwards it was.

Question. Was it windy?

Ans. No, sir; not very windy.

Question. Where did the Richmond strike the Sabine?

Ans. She struck her forward the nosing; forward of the brace; somewhere about there.

Question. How long was it after before the Sabine sunk?

Ans. I don't know how long.

Question. Why did you run under the cabin steps?

Ans. To save myself; to keep the cotton from getting on me.

Question. To prevent it falling on you?

Ans. Yes, sir.

Question. First you stopped short of the cabin steps?

Ans. Yes, sir.

Question. And you had next to run back?

Ans. I had next to get out of the way if I could.

Question. And you thought it best to go under the cabin steps?

Ans. Yes, sir; it was the safest way; I ran round to get out forward on the other side, and ran into the cabin steps and got outside.

Question. It was then you looked at the shore?

Ans. No, sir; I could see the shore before; I could see the shore right across from where I was; just as you were on the starboard side: it is a gangway there.

Question. Within what distance could the Richmond be stopped?

Ans. I could not tell; I don't know.

Question. How many revolutions of the wheel would it take to check her speed?

Ans. I could not tell you that.

Question. How fast was she running?

Ans. At a fast gait; I don't know how many miles an hour she does go; but I guess when she was whistling she was under full headway; I do not know.

By Mr. CAMPBELL:

Question. You were in the hold; then how do you know how fast she was going?

Ans. I do not know.

870 By Mr. EGAN:

Question. How wide is the river?

Ans. I don't know.

By Mr. MARR:

Question. Did you trim the signal lights that night?

Ans. Yes, sir.

Question. What colored lights did the Richmond carry?

Ans. A green light and two red lights.

Question. Where were the green light and the two red lights?

Ans. The green was on the starboard chimney, and the red lights were amidships.

Question. What time did you trim these lamps last?

Ans. It was late in the evening.

Question. How many times during the night did you trim these lamps?

Ans. Well, if they get dim I trim them about midnight, but these lamps are large and burn eight hours clear.

Question. Then you did not trim these lamps that night at all?

Ans. No, sir; only early in the evening.

Question. Do you know whether these lamps were burning all night?

Ans. Yes, sir; they were burning until morning.

Question. You took good notice of them at the elevator?

Ans. Yes, sir.

Question. When was it next that you saw them?

Ans. When I took them down in the morning; I took notice of that when I was taking them down in the morning, that they were burning clear and in proper condition.

THOMAS CALLOW, sworn for the claimant and cross-libellant, says:

Examined by Mr. CAMPBELL:

Question. Where do you reside?

Ans. In New Orleans.

Question. Were you employed on the Richmond at the time she collided with the Sabine?

Ans. I was.

Question. In what capacity?

Ans. Striker.

Question. Were you on the watch at that time?

Ans. Yes, sir.

871 Question. Did you hear the Richmond's whistles?

Ans. I heard one whistle.

Question. Did you hear any reply to that whistle?

Ans. No, sir.

Question. Which engine were you stationed at?

Ans. The starboard engine.

Question. Tell what occurred in the engine-room after you heard that whistle.

Ans. There was not anything occurred until the bell commenced to ring.

Question. How long after the whistle before the bell commenced to ring?

Ans. I should judge it was about a minute.

Question. What bells rung?

Ans. The larboard stopping bell rung first; then it rang to come ahead; then it rang to back, and shortly after the starboard bell rang to back; that is, the gong.

Question. Was the Richmond backed?

Ans. She was.

Question. How long had she been backing before the two boats came together?

Ans. I should judge about half a minute; the larboard engine was backing before the starboard.

Question. Were the signals of the pilots, in the engine-room, promptly responded to?

Ans. They were.

Question. By the engineers?

Ans. Yes, sir.

Question. What did you do with your engine?

Ans. I stopped the engine when the bell was rung.

Question. Immediately?

Ans. Immediately.

Question. How long after you stopped your engine was it before you got another signal?

Ans. There was no signal given to stop the engine; there was one given to back, and she was immediately backed.

Question. There was no signal given to stop your engine?

Ans. No, sir.

Question. One was given to back?

Ans. Yes, sir.

Question. About how many revolutions had she backed before they came together?

Ans. I did not count them.

Question. About how long had she been backing?

Ans. She was backing about half a minute; that is, the starboard engine.

Question. Was the larboard engine backed?

Ans. Yes, sir; she was backed.

Question. State whether or not they were vigorously backed.

Ans. Yes, sir; they were backed very strong.

872 Question. Did the boat respond to the wheels when they were reversed?

Ans. I could not say whether she was backing or not; but I knew the wheels were going back.

Question. Were you at your post there in the engine room?

Ans. Yes, sir.

Question. Did you act with rapidity when you got these signals?

Ans. I did.

Question. How is the Richmond backed?

Ans. Backed with a bar.

Question. By hand?

Ans. Yes, sir.

Question. You backed that engine yourself?

Ans. No, sir; the second engineer backed it; each engine is backed with a separate bar.

Question. Who backed the larboard engine?

Ans. My partner striker.

Question. Was he at the larboard engine?

Ans. Yes, sir; he was.

Question. Is that all you know about this?

Ans. That is all.

Cross-examined by Mr. MARR:

Question. What is the name of the second engineer on that boat?

Ans. Wilson.

Question. Which engine was he at at the time of this collision?
Ans. He was at the starboard engine.
Question. Who was at the larboard engine?
Ans. The other striker.
Question. How long had the second engineer been at the starboard engine?
Ans. When the bells rang to back, he hallooed to me to stop her.
Question. Where was he standing?
Ans. At the foot box.
Question. On the starboard engine?
Ans Yes, sir.
Question. He hallooed to you to stop her?
Ans. Yes, sir.
Question. Was he at any time over on the larboard engine?
Ans. He was.
Question. When?
Ans. He stopped the larboard engine.
Question. Then came over to the starboard engine?
Ans. On the starboard side, and rushed past me after I had stopped the engine.
Question. Which engine stopped first?
Ans. The larboard.
873 Question. Which engine backed first?
Ans. The larboard.
Question. Had the larboard engine commenced backing before the second engineer came to the starboard engine?
Ans. Yes, sir.
Question. When you are going ahead on your engine and the bell rings to back, what do you do to back her?
Ans. You have first to stop the engine before you can commence to back her.
Question. Then do you not have to ship up for backing?
Ans. No, sir.
Question. How do you back the engine on that boat?
Ans. With a bar.
Question. Don't you have to take hold of the bar and put it into place?
Ans. No, sir; it is already fitted; all they have got to do is to take hold of it and work it.
Question. How long does it take you to stop the engine?
Ans. Stop her dead?
Question. Yes. How long does it take you to stop her before you get ready to back?
Ans. If she is under headway, it would not take a quarter of a minute.
Question. Would it take the quarter of a minute?
Ans. No, sir.
Question. Do you know whether, when they intend to back and the pilot wants a steamboat backed, does he not first ring the bell to stop the engine and then ring the bell to back?
Ans. Yes, sir.
Question. Is not that the rule, first to ring the bell to stop the engine and then ring to back?
Ans. There is a rule on that boat which is if there is no stopping bell rung and one rung to back, you have got to back her at all hazards.
Question. Now, don't you know that in steamboat navigation, when

the pilot wants to back her the first thing he does is to ring his stopping bell?

Ans. Yes, sir.

Question. And after he has rung his stopping bell, he rings his backing bell?

Ans. Yes, sir.

Question. Now, you say it is the rule on your boat that when the gong rings to back, you must back at all hazards?

Ans. Yes, sir; because she run into the bank at one time on account of the negligence of the pilot in not ringing the stopping bell.

874 Question. Don't you know that the Richmond did not obey her helm readily, and a great deal of the steering management had to be done with the engines?

Ans. I know nothing about that.

Question. How long have you been on the Richmond?

Ans. I have not been on her very long.

Question. How long?

Ans. About a month altogether.

Question. Don't you know that there was a great deal of handling on the Richmond because she did not obey her helm and did not steer well?

Ans. She obeys the bells.

Question. I am asking you if you do not know that there had been a great deal of handling on the engines because she did not obey her helm?

Ans. We did not know whether she was obeying her helm or not.

Question. Well, do you know that there was a great deal of handling on the engines of the Richmond?

Ans. Yes, sir; I know there is a great deal of handling.

Question. Before that gong rang to back your engine, how many revolutions were you making a minute?

Ans. I have no idea of how many at that time.

Question. You do not know how fast you were going, then?

Ans. I was looking at her.

Question. And you have no idea of how many revolutions she was making?

Ans. She was making fourteen or fifteen.

Question. That is her maximum?

Ans. I don't know.

Question. How high have you ever run her; how many revolutions have you ever made?

Ans. It depends up' which way the boat is going; when she is going down the river she can make more than when going up.

Question. How many revolutions have you made with these engines up stream?

Ans. About sixteen, up stream.

Question. You have an idea that she made well, working fourteen or fifteen, when they rung to stop the engines?

Ans. Yes, sir.

Question. How fast would that take her up the river?

Ans. I should judge about ten miles an hour.

Question. Can you tell how long after the gong rang to back before the boat up struck?

Ans. Just about a minute.

875 Question. How many back revolutions does it take when you are going ahead at fourteen or fifteen revolutions a minute to slack the forward motion of the boat?

Ans. About six revolutions.
Question. To stop?
Ans. Yes, sir.
Question. That would slack her headway?
Ans. Yes, sir.
Question. Do you know how many revolutions you made before that?
Ans. No, sir; I do not.
Question. Then, have you any idea whether the Richmond was going ahead or backing?
Ans. I have not.
Question. Did you leave your foot-box at all?
Ans. No, sir; until twenty minutes after we struck that boat.
Question. You have no idea of how near you were to the shore?
No, sir.
Question. Nor how near they were to each other?
Ans. No, sir.

Cross-examined by Mr. EGAN:

Question. How long were the engines stopped when the first bell rang?
Ans. Which engine?
Question. The engine of the Richmond.
Ans. Well, there was no stopping bell rung on the starboard side; on the larboard there was a stopping bell rung, and she was stopped immediately; after that she came ahead again.
Question. There was no bell rung on the starboard engine to stop at all?
Ans. No, sir.
Question. The only signal you did get was the gong?
Ans. To back.
Question. How had the other been stopped before it was rung to go ahead again?
Ans. Immediately.
Question. How many bells are rung to stop?
Ans. Both engines?
Question. Either engine.
Ans. There was only one bell rung to stop.
Question. How many to go ahead?
Ans. One.
Question. Who was on the watch on the night of the collision in the engine-room?
Ans. The second engineer, the partner of the striker, and myself.
Question. Where was the striker?
Ans. At what time?
Question. The time the Richmond blew her first whistle.
Ans. I don't know.
876 Question. Where was the engineer at that time?
Ans. He was at his post.
Question. Where was his post?
Ans. Round the engine-room.
Question. What part of the engine-room?
Ans. I did not pay particular attention to where he was.
Question. Did you see him?
Ans. I knew he was there; I did not see him; I knew he was within calling distance.
Question. How do you know he was within calling distance if you did not see him?

Ans. Because he was always around there when he is on the watch.
Question. Who stopped the larboard engine?
Ans. The second engineer.
Question. Did you see him doing it?
Ans. I did.
Question. Are you positive it was not the engineer?
Ans. I am positive it was the engineer.
Question. How long was that engine stopped before the bell was rung to go ahead again?
Ans. The bell rung to stop and the engine was stopped; the bell rung immediately to go ahead, and she went.
Question. How long did she go ahead before the next warning came?
Ans. It was not a quarter of a minute.
Question. Which gong, then, was rung first?
Ans. The larboard.
Question. Then what gong was rung after that?
Ans. The starboard.
Question. What difference was there between the two?
Ans. In time?
Question. Yes.
Ans. There was not many seconds.
Question. Do you know whether they were obeyed?
Ans. They were.
Question. Who obeyed them?
Ans. The two strikers.
Question. Who handled your engine for stopping?
Ans. I stopped the starboard engine.
Question. Was the engineer there?
Ans. He was on deck near the foot box.
Question. He did not come near it?
Ans. He was there while I was stopping it.
Question. Have you testified before a board of inspectors?
Ans. I have not.
877 Question. Have you not told some one that you made about a quarter of a revolution back?
Ans. I did not.
Question. Had she made a full revolution of the wheel back?
Ans. I don't know; that is, the starboard engine.
Question. How long would it take to stop, reverse the wheel, and make it go back?
Ans. About a quarter of a minute.
Question. Was the blow violent?
Ans. Yes, sir; I felt it very much in the engine room.
Question. You felt it very much?
Ans. Yes, sir.
Question. Did it nearly throw you off your feet?
Ans. Yes, sir; and bumped me against the second engineer when she struck.
Question. Which way were you thrown?
Ans. On my left side, on to his back.
Question. He was standing forward of you?
Ans. He was standing aft of me; I was standing facing the engine, and he was handling her.
Question. He was standing directly behind you?
Ans. That is, to my left.
Question. You were thrown backwards?

Ans. No, sir; sideways.
Question. Towards the stern of the boat?
Ans. No, sir.
Question. Was he not thrown forward to you?
Ans. No, sir.
Question. Are you positive of that?
Ans. Well, I could not take oath to it.
Question. How long have you been engaged in steamboating?
Ans. Altogether?
Question. Yes.
Ans. About a year.
Question. Have you been a striker all that time?
Ans. Off and on.
Question. Where have you worked previous to that?
Ans. I have been on several boats before this one.
Question. Previous to the year you have been on the river steamboating?
Ans. In a blacksmith's shop.
Question. Where?
Ans. In Jackson's foundry, and McCan's.
Question. You are not an engineer?
Ans. I do not profess to be
Question. Did not the Sabine blow the first two whistles?
Ans. I don't know.
878 Question. Did you hear the whistle of the Richmond?
Ans. I heard one whistle.
Question. Did you hear any from the Sabine?
Ans. I did not.
Question. Was this whistle from the Richmond blown about the time the gong struck?
Ans. Yes, sir; before.
Question. How much before the time the gong was struck?
Ans. About a minute and a half.
Question. Was the stopping bell rung before the blow?
Ans. Before the whistle blew?
Question. Yes; before or after?
Ans. After.
Question. How long after?
Ans. About a minute and a half.

Re-examined by Mr. CAMPBELL:

Question. In your cross-examination, where you say you know there was a great deal of handling done to the engines of the Richmond, do you mean that that handling of the engines of the Richmond was caused by the fact she did not steer well, and did not obey her helm?
Ans. No, sir; I did not state it in that way.
Question. What do you mean when you say there was a great deal of handling on the engines of the Richmond?
Ans. Well, there is hard work and plenty of it.
Question. Then I understand from you that you do not mean to say that that handling of the engines was due to her bad steering at all, or disobedience to the helm?
Ans. No, sir; I do not.
Question. Who backed the starboard engine of the Richmond?
Ans. The second engineer.
Question. You say you stopped it?

Ans. Yes, sir.
Question. And he backed it?
Ans. Yes, sir.
Question. You were asked whether or not you were an engineer; now I ask you what you are on the Richmond?
Ans. A striker.
Question. What does that "striker" mean?
Ans. The same as an apprentice in a foundry.
Question. You are learning the business of engineer under the engineer as your principal?
Ans. Yes, sir; and I have been on several boats and never was on a boat that required so much handling of the engines as this (the Richmond).

879 By Mr. EGAN:

Question. You do not know why they are handled so much; you do not know the reason?
Ans. Well, no; there is no more handling to do to make her back than there is on any other boat; but then it is a great deal harder to back that boat than a high pressure boat.

By Mr. CAMPBELL:

Question. The Richmond, then, is a low pressure boat?
Ans. Yes, sir.

By Mr. EGAN:

Question. You know that she was backed, and stopped, and pulled forward more than is customery on other boats?
Ans. Not on this occasion.
Question. Well, generally?
Ans. I don't know that she has any more handling than any other boat in general.
Question. You have just now stated that you have been on several other boats, and as I understood you also, you stated that the engines of the Richmond required more handling than you have had to do on other boats?
Ans. What I mean by that is, that it is harder work to back her; there is more strain; on high pressure boats it is all done by leavers, and it is easier work.
Question. Have you not had more handling to do on them engines, not with reference to the amount of labor, but more handling than you have had usually to do on other boats?
Ans. Well, there is a great deal of difference in boats.
Question. Answer the question.
Ans. I cannot say that there is any more.

N. W. WILSON, sworn for the claimants and cross-libellants, says:

Examined by Mr. CAMPBELL:

Question. What was your business on board the steamer Richmond?
Ans. Second engineer.
880 Question. Were you on her at the time of the accident with the Sabine?
Ans. Yes, sir.
Question. Did you hear any whistle a short time previous to that accident?

Ans. I heard a whistle blow, but I do not know how many whistles there were.

Question. The Richmond whistle?

Ans. Yes, sir.

Question. What happened after that whistle blew?

Ans. The engine was reversed and backed.

Question. Where were you at the time that whistle blew?

Ans. I was up on the larboard foot box.

Question. On the foot box of the larboard engine?

Ans. Yes, sir.

Question. Was there any gong rang, or bell, or anything of that kind, after that whistle blew?

Ans. Well, not for some time afterwards.

Question. How long?

Ans. Well, I could not tell you that.

Question. About how long?

Ans. I could not say; I don't know.

Question. Was any gong or bell rung at any time?

Ans. Yes, sir.

Question. Which bell was it, or which gong?

Ans. The bell on the larboard foot box rang "stop."

Question. What was done then?

Ans. I stopped the engine, and the striker on that side came up on the foot box, and the bell was rung to come ahead; I then walked down on the main deck of the boat.

Question. What happened then; did any other bell ring?

Ans. Then immediately that two taps of the gong on each side of them.

Question. What do you mean by "them"?

Ans. The larboard and starboard side.

Question. What does that mean?

Ans. To back the engines.

Question. Then the pilot gave you the signal to back both the engines?

Ans. Yes, sir.

Question. Which engine did you back?

Ans. The starboard engine.

Question. Do you know whether the larboard engine was backed?

Ans. Well, while I was backing mine, I looked over at my own, and saw the pitman going back, reversed.

881 Question. Did you back that starboard engine strong?

Ans. Yes, sir.

Question. Do you know how long she had been backing before the two boats came together?

Ans. I do not know exactly.

Question. About how long?

Ans. Well, I think I backed my engine about a quarter of a minute before that, as near as I can come to it.

Question. When the boats came together?

Ans. Yes, sir.

Question. How many revolutions had she made back on your side?

Ans. Well, I noticed that she made half a revolution; after that I do not know how many; but I think she made two or three; I can't say exactly.

Question. How many had she made back on the other side?

Ans. I don't know.

Question. Were the signals given by the pilot promptly responded to by the engineers?

Ans. Yes, sir; I think they were.

Cross-examined by Mr. MARR:

Question. How many revolutions were the engines making at the time the bell rung to stop the larboard engine?

Ans. Well, I expect she was making about twelve or thirteen, as near as I can come to it.

Question. How many do you make, ordinarily, going up stream?

Ans. About fourteen or fifteen revolutions.

Question. How many miles an hour would twelve or thirteen revolutions send her?

Ans. Nine or ten miles an hour.

Question. When that bell rung to stop the larboard engine, how long did that engine stay stopped?

Ans. I do not know exactly.

Question. How much time was there between the ringing of the bell to stop the larboard engine, and the ringing of the bell to go ahead again?

Ans. Well, from the time that I could walk from the foot box down to the main deck.

Question. That was about ten steps?

Ans. Yes, sir; about ten steps.

882 Question. The difference between the ringing of the bell to stop, and the ringing of the bell to go ahead again on the larboard, was just while you were walking ten steps?

Ans. Yes, sir.

Question. Did you go ahead again immediately?

Ans. Yes, sir.

Question. Where were you when you heard the two gongs ring?

Ans. I was standing in the engine room.

Question. Just where you stopped?

Ans. No, sir; I had walked two or three steps.

Question. Were you standing about midway between the two engines?

Ans. Very near.

Question. What is the distance between the two engines of the Richmond?

Ans. I don't know exactly.

Question. Forty feet?

Ans. I don't know.

Question. You don't know how far it is?

Ans. No, sir.

Question. Did both gongs ring at the same time from the larboard and starboard engines?

Ans. About the same time.

Question. You could not tell which rung first?

Ans. I could not tell.

Question. When you heard them ring what did you do?

Ans. I told the striker on the larboard side to stop them.

Question. What then did you do?

Ans. I went over to the starboard side and stopped that.

Question. Which engine stopped first?

Ans. The larboard.

Question. Who backed the starboard engine?

Ans. I did.

Question. And you had to walk from where you were to tell the man to stop the engine?

Ans. Yes, sir.

Question. You walked up on the foot box of the starboard engine?

Ans. Yes, sir.

Question. And then took hold of the lever?

Ans. Yes, sir.

Question. Had you to stop her first?

Ans. Yes, sir.

Question. And then take hold of the lever?

Ans. Yes, sir.

Question. Had you not to wait until she came first to a stop before you backed her; did not you have to wait until the engines stopped before you commenced backing?

Ans. Well, I can stop her and back her immediately.

Question. Well, she has to stop?

Ans. I suppose she should have to stop going ahead before she comes back.

Question. You walked from the place where you were standing, and got up on the foot box, before she commenced backing on the starboard engine?

Ans. Yes, sir.

883 Question. Can you tell how long it was, after you took that lever in your hand and commenced backing, before the boats struck?

Ans. Well, I should think it would be about a quarter of a minute, as near as I can come to it.

Question. Have you an idea whether the boat was going ahead or stood sternway, when the boats struck?

Ans. Well, I could not tell; I don't know.

Question. How long have you been an engineer?

Ans. I have been an engineer going on a year; that is, as second engineer, and a striker about six years.

Question. Have you any idea of how long it takes, when the Richmond has been going along with both engines making twelve or fourteen revolutions, to give her sternway?

Ans. I don't know exactly.

Question. Have you any idea?

Ans. No, sir.

Question. Do you know, when a pilot wants to back his boat, the first thing is to ring the bell to stop the engine?

Ans. Yes, sir.

Question. Have you a rule on the Richmond by which the backing bell is rung without ringing the bell to stop?

Ans. Well, I don't know of any such rule.

Question. Don't you know that the universal rule on the Mississippi River is, when a pilot want to back his boat he first rings the bell to stop the engines, and then immediately after rings the backing bell?

Ans. Yes, sir; that's the rule.

Question. Have you not got to make a little preparation for backing the engines when you are going ahead?

Ans. Well, you have a little.

Question. When you have not heard any signal for landing, no warning when a landing is going to be made, and you hear the bell to stop, do not you immediately ship up to back in?

Ans. Not always.

Question. Don't you generally look out for the next signal when you are making a landing, or when they have had no warning or notice that

the boat was to be landed, and the bell is rung to stop the engine, do they not make preparation with the expectation that the next signal will be to back the boat?

Ans. Well, sometimes they do and sometimes they do not.

Question. Is it not generally the case that you do make prep-
884 aration to back the boat?

Ans. I think that preparation is made all the time, very near; sometimes it is, and other times it is not.

Question. Have you any means of knowing how many revolutions back the larboard engines had made when these boats struck?

Ans. No, sir.

Question. Have you any means of knowing how many revolutions the starboard engines had made back when these boats struck?

Ans. There are means of course.

Question. Are you possessed of these means; or how many revolutions she made?

Ans. I noticed that she made half a revolution back; then I did not pay any particular attention, but kept backing her.

Question. That was before the collision?

Ans. Yes, sir; and after the collision she kept backing.

Question. How long after the collision did you stop backing and go ahead?

Ans. Well, some time; I could not tell you exactly.

Question. Do you know how far you had gone off from the Sabine from your first stopping and next going ahead?

Ans. No, sir.

Question. How long after you got ahead of her and stopped your engines?

Ans. I don't know.

Question. For all that you knew, they kept on backing until the bells rang to stop backing; then they went ahead and kept on going ahead until the bells rang to stop going ahead?

Ans. We kept on backing until we stopped; I was handling the engine, and then after they struck I gave the engine to the striker and walked down on the foot box.

Question. Where did you go after you left the foot box?

Ans. I went on the larboard guard; on the larboard side.

Question. How far did you go?

Ans. On the border.

Question. How far from the foot box?

Ans. Just across the boat.

Question. How long did you stay there?

Ans. I don't know exactly.

Question. When you got out on the larboard guard did you see any shore?

Ans. No, sir.

Question. When you got out on the larboard guard where was the Sabine?

Ans. Lying alongside of us.

885 Question. How far were you from her when you got out on the larboard guard?

Ans. I was some distance.

Question. How far was the Richmond from her?

Ans. About alongside of her.

Question. She had not cleared from the Sabine?

Ans. I could not tell you.

Question. When you got out there or not?

Ans. No, sir.

Question. She looked to you as a boat lying alongside?

Ans. Very near that way.

Question. And your engines still backing, both of them?

Ans. Well, I could not exactly say that. I gave the engine up to the striker and walked down on the foot box; when I gave it to h'm I was backing.

Question. And the boats looked to you as if lying alongside of each other?

Ans. Yes, sir.

Question. Were they touching?

Ans. I don't know.

Question. Did you see the cotton tumble off on the top of the Richmond?

Ans. I did not.

Question. Did you see it lying on the guard of the Richmond?

Ans. No, sir.

Question. Did you see any cotton on the guard of the Richmond at all?

Ans. No, sir.

Question. When you are going ahead on those engines, from twelve to thirteen revolutions, how many revolutions does it take to give the Richmond sternway?

Ans. Well, I could not tell, exactly; I should judge it would be about six or seven; I think so, I do not know exactly.

Question. Do you back that boat by hand?

Ans. Yes, sir.

Question. How much faster do you work her going ahead than you do backing her, and in how many revolutions can you get her back in a minute?

Ans. Well, the first minute you give her more than the other.

Question. Well, the first minute how many can you give her?

Ans. About six or seven.

Cross-examined by Mr. EGAN:

Question. From the time you commenced backing until the blow, she only made about half a revolution of the wheel?

886 Ans. I don't know anything about that; I never studied that, but I think she made half a revolution. I do not know how many she made after that until the collision.

Question. Did not you state to the inspectors, in your examination before them, that she only made half a revolution?

Ans. I did, sir; I watched her, and then I don't know but she made more.

Question. Where were you when the collision took place?

Ans. The right of the starboard foot-box.

Question. And then you saw the boats coming together?

Ans. No, sir.

Question. You were on the starboard foot-box?

Ans. Yes, sir.

Question. And you stopped that engine?

Ans. No, sir.

Question. Who stopped it?

Ans. The striker did on that side.

Question. Where were you when the larboard engine was stopped?
Ans. On the larboard foot-box.

Re-examined by Mr. CAMPBELL:

Question. What is the rule on the Richmond when no stopping bell has been rung, but the gong sounds twice; what do you do?
Ans. I back her.
Question. You do not wait for the stopping-bell; you back her right straight?
Ans. Yes, sir.
Question. You said that you counted half a revolution of the starboard engine; you watched it while it made half a revolution, and then kept backing, and do not know how many revolutions back she made before they struck?
Ans. Yes, sir; I think she made two or three; I do not know exactly.

By Mr. VOORHIES:

Question. You say the rule on the Richmond is to back her when you do not hear the stopping-bell, but the gong rings twice; how do you know that that is the rule on that boat?
887 Ans. Well, I do not know that that is exactly the rule, but I understand it that way.
Question. When did you first hear that that was the rule?
Ans. Some time ago.
Question. From whom did you hear it?
Ans. Well, I don't recollect who it was, but that has been always my rule whenever I do not hear the bell to stop.
Question. Is that a written rule on the Richmond?
Ans. No, sir.
Question. Have you been notified by the captain of the vessel or the officers that that was the rule?
Ans. No, sir.

By Mr. CAMPBELL:

Question. But you always do that?
Ans. Yes, sir.
Question. Is it not understood in the engine room that that is the rule?
Ans. Well, I don't know, but when I am there, it is.

J. B. WOODS, examined on behalf of the claimant and cross-libellant, says:

Examined by Mr. CAMPBELL:

Question. Where do you reside?
Ans. In the city of New Orleans.
Question. What is your business at present?
Ans. The wholesale grocery business.
Question. What firm?
Ans. The firm of Noble & Woods.
Question. Have you ever been engaged in navigating the Mississippi River?
Ans. Yes, sir; I was commander and clerk on a steamboat for twenty years in the St. Louis and New Orleans trade.
Question. Do you know the course that an ascending boat should pursue after leaving Carrollton?
Ans. Well, there has always been general rules established as to both

ascending and descending; a boat in ascending the river, after leaving Carrollton, crosses over and runs round Nine-mile Point as close as the bar would allow for to run up that shore.

Question. You mean the left shore going up?

888 Ans. Yes, sir; about half a mile or a mile. I don't think there is any particular point; with some there is; then we cross over in that particular part of the river we are talking about (see Exhibit C, next page); then we make a long crossing on the river and approach within about one hundred and fifty or two hundred yards—perhaps three hundred—owing to the stage of the water, there being a large mud bar there (1); and then crossing over, as I said, come under Twelve-mile Point; I suppose it would take a mile, if not two miles, below the point to straighten up.

Question. Then, where, about, from the right bank going up?

Ans. About two hundred yards.

Question. What would be the proper course for a descending boat coming down the river above Twelve-mile Point?

Ans. A descending boat coming along here (2) would be in the bend above Twelve-mile Point, and as they neared the point make rather a long crossing into the bank opposite Twelve-mile Point, as here indicated by the dotted lines on the diagram, Exhibit C.

Question. Would she be near the proper course if she attempted to come down hugging Twelve mile Point and keeping on the same side of the river?

Ans. I would most certainly say not, night or day.

Question. How wide is the river between Twelve-mile Point and the bend shore opposite?

Ans. I should think it was from three-quarters of a mile to a mile.

Question. Is it unobstructed?

Ans. Yes, sir.

Question. And plenty of water?

Ans. Yes, sir; so far as I know. I am not a pilot, and do not know of any mud bars; that is the way we run while I was steamboating.

Question. Have you gone up to Twelve-mile Point recently?

Ans. Yes, sir; I was up there recently. I took a tugboat and went up to the wreck of this boat.

Question. Did you examine the wreck?

Ans. Yes, sir.

Question. Which boat?

Ans. The Sabine; I was on board of her yesterday.

Question. Will you please describe the break in the hull of the Sabine?

Ans. That is a pretty difficult thing to do; it is the most singular break I ever saw; from the appearance it looks to me as if it was a break sideways, and not fore and aft, or a cross-break; that is all

889 I can say; as to the timbers and the plank, they bear the appearance of having been mashed over, and smashed the deck down and cut into the bed-plate of the capstan.

Question. How did it occur, judging from the appearance of the wound?

Ans. It has been mashed against something or other; I do not know how it happened; of course we have the statements of both parties that the collision took place.

Question. You take it for granted that there was a collision?

Ans. Yes, sir; and it has evidently been more of a side blow than a fore and aft blow.

Question. Is there any appearance which would indicate that the Richmond came into her head on ?

A. I would think—I do not think, from the character of the break, that a boat could have made it head on in the manner in which it is made; it does not appear to have that appearance; it is rugged.

Question. It is more of a mash in ?

Ans. Than a cut.

Question. Which side of the Sabine is it ?

Ans. The starboard side.

Question. How far aft of the bow ?

Ans. I think it would be about ten feet.

Question. Are the timbers in front of the break disturbed between the break and the bow; are they mashed in ?

Ans. For a short distance they are; I do not remember exactly; but I think, from the location of it, that there was about three feet from the stem that was not broken in.

Question. What appearance has it aft of the cut on the timbers of the Sabine ?

Ans. I did not notice any break aft besides the main break aft the capstan; I do not think the timbers aft of the break are injured.

Question. Will you take a piece of paper and draw what you would suppose to be the position of the boats when they came together, judging from the break ?

Witness draws the following diagram, marked Exhibit B, and says:

890 The position of the boats has evidently been that of the letter A, the Richmond on the right hand side, here, and the Sabine on the left; the appearance of the break in the Sabine has more the appearance as if the two boats swung together by the bow, and has no appearance of either one of them going ahead; however, I cannot say; they may have been going together, but it must have been at a slow rate of speed.

Question. They may have been both backing; or from the shape of the cut they may have been going ahead; draw on this diagram the position these two boats may have been when they both touched ?

Ans. Well, I could do it so far as the relative position of the boats in the river; I do not know the position they were in, but what I propose to do is to define the position of the boats to each other, judging from the break in the Sabine, when the boats come together; they would be in that position, as the stem of the Sabine does not appear to be hurt.

Question. Was the appearance of that break as if the weight of the Sabine had swung against the bow of the Richmond, and, as it were, struck the hole in her with the stem of the Richmond; what was the appearance ?

Ans. Well, I should say the appearance of the break in the Sabine was more of being a crash in sideways than fore and aft; it was from aft to forward; that is the shape of the break:

I don't know which swung against the other.

891 Question. If the Richmond had come into the Sabine head on, what, in your opinion, would have been the nature of the break?

Ans. She would have run clear through her; she never would have stopped.

Question. Is the Richmond very sharp and strong at the bow?

Ans. Very sharp; sharp as a wedge; I suppose there is no sharper boat comes here.

Question. Is she very strong?

Ans. Yes, sir; very strong at the bow.

Question. If the Richmond had struck the Sabine head on, what effect would it have had on the stem of the Richmond?

Ans. I think it would have marked it very smartly on both sides, but not break it; it evidently would not have disturbed the stem in its place.

Question. How was the Richmond's stem affected by the collision?

Ans. I went and examined the Richmond the day after she came down here, and I found the stem started off entirely to starboard; this was on the larboard side; the stem was driven to starboard, and the starboard side was tight.

Question. What was the cause of driving the stem over starboard, in your opinion?

Ans. It must have been by a square lick from the larboard.

Cross-examined by Mr. MARR:

Question. How long have you been running on the river?

Ans. Twenty years.

Question. When did you quit it?

Ans. Just before the war, in 1861; I was steamboating up to the time of the war.

Question. In what capacity were you running?

Ans. For the last two years I was commanding a steamboat.

Question. Do you know anything about piloting?

Ans. No, sir; but I have always made it a practice to observe the river, and was a pretty good judge of the channel between St. Louis and New Orleans; and have often had practice in handling a steamboat.

Question. Is there any law on the river in regard to what course boats should take?

Ans. Do you mean the relative course?

892 Question. Relative to the river?

Ans. Well, sir, it was always a general rule; a rule and custom, it was not a law.

Question. Is the custom a law?

Ans. It has usually been.

Question. Is there any custom for boats descending to take a particular part of the river?

Ans. Yes, sir; always, and a very important one, that a boat runs from the foot of one bend into the head of another bend, let her be loaded or not.

Question. Does not the ascending boats usually take the bend for the purpose of getting slack water?

Ans. If they did they would not get it; they must come up under the point to get the slack water; that is the reason ascending boats take that; it is the natural place where a boat would float if you would let her alone.

Question. Is not the bend always under the point?

Ans. It is always a long distance under the point before you come to the bend.

Question. It is the bend?

Ans. Nor, sir; not at the bend; if you follow for a few miles under Nine mile Point you get into the bend.

Question. What constitutes the bend?

Ans. The turning or elbows the river makes from one point to another; it is the current leaving the point that causes the current under the point; and there, consequently, a bar forms where the current leaves it; that is the nature of the Mississippi and Missouri Rivers, unless there is gravel upon the bottoms.

Question Is there the same difficulties in the navigation of a boat whether there is high or low water?

Ans. Yes, sir.

Question. What is the stage of water in the Mississippi River at the present time?

Ans. The stage here now is what we would call a medium stage; neither high nor low; I do not know how many feet it is above the low water mark of last summer, but it is considerable; it is a medium stage.

Question. Would there not likely be more current in the Mississippi River in the middle than on the side?

Ans. That depends upon the location; as you pass over into the bend the most current would be in the middle of the river; but as you near into the bend you ascertain that it comes into the middle of the river preparatory to forming under the bend on the other side.

Question. Did you not go up yesterday with the owners of the Richmond for the purpose of examining the Sabine?

A. Yes, sir.

893 Question. With a view to give your testimony to-day?

Ans. No, sir; there was nothing said about giving my testimony; if there was I should not have gone. I just went for the ride, to see if the boat was up.

Question. Did you express your opinion?

Ans. No, sir; I do not know that I did. We might have talked the matter over, for I was well acquainted with the man who was raising her, Captain Andrews.

Question. Did you talk to him about her?

Ans. Yes, sir; about the hole in the boat, and the prospects he had of raising her.

Question. Did you not talk the matter over with the owners of the Richmond?

Ans. I did talk with the captain.

Question. Did you tell him your conclusions?

Ans. I did not. I told him, on the contrary, that the owners of the Sabine were friends of mine, and not to make a witness of me.

Question. How much of the Sabine was out of the water when you saw her?

Ans. Well, the combing of the forward hatches were above water.

Question. Is that all?

Ans. Yes, sir.

Question. Was the guard above water?

Ans. Yes, sir; along there. The water was about abreast of the hatches.

Question. How high was it out of the water about the guards?

Ans. About abreast of the hatches. According to the natural shape of the boat, I suppose the bow is three feet above water, and goes into the water about abreast of the hatches.

Question. Aft the break; is that out of the water?

Ans. Yes, sir; all was out of the water up to the break.

Question. How high was that out of the water, the last part of the break?

Ans. I suppose it was about two feet.

Question. Were the planks broken, and the guards to the middle, to the capstan—from the edge of the guard to the capstan plate of the deck?

Ans. Yes, sir; it was cut clear across the entire boat by the workmen to make a bulk-head, in order to shut off the water. I do not know how much the deck was broken by the collision.

Question. Then you don't know in what shape the deck was broken by the collision?

Ans. Yes, sir; I think it is not all cut away. I think, if I re-
894 member right, it is between the two cross-pieces of timber where they cut away the deck right across; I think it is forward of that.

Question. Give the shape of the break.

Ans. I gave you the shape of the break there in the diagram.

Question. Then it run in there to the middle of the boat?

Ans. It is broken in there to the middle of the boat, but the plate of the capstan is broken.

Question. How far do boats have to stand out in going up from Nine Mile Point—I mean in going round Nine Mile Point; how far do boats have to stand out from Nine Mile Point?

Ans. I would think about one hundred and fifty yards, or two hundred.

Question. I am speaking of the present stage of the water?

Ans. That would depend, too, on the draft of the boat.

Question. You know how the Richmond was loaded, and you know the draft of the Richmond?

Ans. No, sir; I do not.

Question. Do you know the class of the Richmond as to size?

Ans. Yes, sir.

Question. Now, how far from Nine Mile Point would the Richmond, going up at night, prudently stand?

Ans. At Nine Mile Point?

Question. Yes.

Ans. Well, I would say three hundred yards.

Question. Then, do you know any obstruction to the view of an ascending steamboat, standing out three hundred yards, from Nine Mile Point up to Twelve Mile Point; is there any obstruction of the view from a boat at Nine Mile Point up to Twelve Mile Point?

Ans. That would depend very much on where you would locate the point. After you get clear round the point you can see Twelve Mile Point.

895 Question. What sort of a point is Twelve Mile Point; is it a long point, or is it a gradual rounding?

Ans. It is a rather sharp point.

Question. Is it a sharp point or gradually rounding?

Ans. Well, it forms an acute angle. I would call it a sharp point.

Question. What sort of water is there immediately under Twelve Mile Point, down along that right-hand shore, under Twelve Mile Point? I am speaking of the shore along Twelve Mile Point.

Ans. Well, there is a mud bar puts out under the point, and tails down some distance; I would suppose a mile.

Question. That bar puts down a mile?

Ans. Yes, sir; but, to qualify that, after you get down the closer it goes; it does not approach out in the river, as it does under the point immediately.

Question. How near to the right-hand shore, under Twelve Mile Point, could an up-stream boat of the class of the Richmond, at the present stage of the water, be navigated; how near to the shore could a boat of that class be navigated, ascending?

Ans. Do you mean at night?

Question. Yes.

Ans. I would say from two hundred and fifty to three hundred yards from the shore.

Question. Do you know where these two boats were at the time they came into collision?

Ans. I do not, sir.

Question. Where does the wreck of the Sabine now lie?

Ans. I would say, from the distance, as we looked at it there yesterday, she is about a mile and a half below the point.

Question. On which side of the river?

Ans. On the same side as the point; on the left-hand side coming down.

Question. She is, then, below the foot of the bar which makes out under Twelve Mile Point?

Ans. No, I think not. She is now about—I think she must be, probably—fifty yards from the shore, and she is evidently still on the bar. She is not down far enough to be in the bend.

Question. What depth of water is she lying in?

Ans. I should suppose at her stern there must be about twelve feet of water.

Question. How would the effect of the collision be modified by a quantity of cotton being stored on the guards of the Sabine?

Ans. It would lessen the force of the blow, evidently.

Question. Would it not also affect the character of the wound
896 which a boat loaded with cotton would receive?

Ans. That would certainly depend upon what position they came together in.

Question. Is there any position in which they could have come together that the bow of the Richmond would not first have to displace the cotton on the guards before it could go into the hull or body of the Sabine?

Ans. Well, if they both were heading to the shore, they both might come sideways.

Question. I ask you if any part of the Richmond could have come in contact with the hull of the Sabine without first displacing the cotton that was on the guard of the Sabine?

Ans. Of course not, if they came in sideways. If the two boats struck side by side they would not hurt the hull of each other. I have seen boats that have struck such hard licks sideways that would drive the outriggers outside of the hull.

Question. Can you tell, from the appearance of the Sabine, whether the outriggers were driven in or not?

Ans. I do not think they were. There could be very little cotton stowed immediately where this break occurred. It would really strike

about the corner of the tier, and so close that there would be very little resistance.

Question. How far from the stem of the Sabine is the most forward part of this break?

Ans. I would think it was about five feet; but that is not a straight line from the jackstaff or stem, but round where the rim comes.

Question. Running a straight line off from the jackstaff until you cut it at right angles, how far would it be?

Ans. About two feet.

Question. How far aft does that break extend; I mean, what is the extent, beginning at the extreme upper part of the break, close to the stem of the Sabine; how far aft does that break extend?

Ans. Well, just from my recollection, I should think it was about six feet.

Question. Is there anything about that break which indicates to your mind conclusively whereabouts the main force of the blow was?

Ans. About half way between the stem and the capstan, I should say, where the force was expended, or nearly abreast of the capstan.

Question. Would you say that the break had a range either forward or aft, or was it a square break?

897 Ans. From the appearance, I would have the impression that it was a square break, as if mashed right in.

Question. It does not seem to be a cut; is it a mash?

Ans. That's my impression.

Question. How long after the Richmond got into port did you go on board of her and examine her?

Ans. She came into port on Sunday, and I went on board of her on Monday; Monday afternoon, I think it was.

Question. What marks did you see on the Richmond such as would have been produced by a collision?

Ans. Well, all the results of the collision or accident with the Sabine that I observed on the Richmond was the mashing in of her stem, from the larboard over to the starboard side, as I said before, and the larboard knee.

Question. How far aft of the stem was that larboard knee?

Ans. Of the Richmond?

Question. Yes.

Ans. I don't remember; I suppose about twenty feet or thirty from the stem; not on a straight line, but round the shape of the guard.

Question. How was that broken?

Ans. The knee?

Question. Yes.

Ans. I have no idea; it must have been the stauncheon or upper work of the Sabine, I presume, that broke it in.

Question. This knee is a very strong piece of wood?

Ans. Yes, sir; they are generally fixed pretty strong.

Question. Generally firmly fastened?

Ans. Yes, sir.

Question. And intended to hold a boat by; used for a hauser to hold a boat?

Ans. No, sir.

Question. What is it used for?

Ans. It is merely a fender, to prevent coming under the guards of other boats, and to enable them to get into port.

Question. Did you notice how that knee was broken; whether it had an inclination in any direction at all?

Ans. No, sir; I did not observe.

Question. You have spoken of the stem of the Richmond being started over to the starboard; did you see any scratch on the hull of the Richmond, on the starboard side?

Ans. No, sir, I did not; I did not notice; do you mean the stem itself?

Question. Yes.

Ans. Yes, sir; the stem itself was scratched.

898 Question. Did you see any mark of violence on the Richmond, except what you saw on the stem and that broken knee?

Ans. No, I did not observe anything else.

Question. Can you say, from what you saw on the Richmond, that the stem of the Richmond did not come in contact with some part of the Sabine?

Ans. Yes, sir; I will say one side of her stem, on the larboard side.

Cross-examined by Mr. EGAN:

Question. You have stated that the Richmond would, if she struck the Sabine with bow on, have cut her in two; would that have been the result under all circumstances?

Ans. I would say yes, with the class of boat that the Sabine is.

Question. Which is the most easily handled, a down-stream boat, loaded, or an up-stream boat?

Ans. That depends upon the character of the boat.

Question. All things being equal, which is the most easily navigated and handled, a down-stream boat loaded with cotton, or an up-stream boat loaded with the ordinary up-stream cargo?

Ans. The up-stream boat, most assuredly, for boats of the same capacity and power.

Question. Has not the Richmond bore the reputation of being a very difficult boat to handle?

Ans. Not that I heard of.

Question. Has she not run into banks on several occasions; have you not heard of her?

Ans. In cases of heavy loaded steamboats that are coming down stream and crossing into the bend, very frequently, if they strike dead water, are apt to be thrown round and driven into the bank, unless they have power sufficient to drag them right out.

Question. You have stated that you do not know the reputation of the Richmond for steering.

Ans. I have never heard anything against her; on the contrary, I have heard that she handled well, but know nothing about it, because I was never out on the river in her.

Question. Have you not heard of her running into the bank on two or three occasions?

Ans. I heard of her running into a bank once.

Question. And sunk with the blow?

Ans. No, sir.

899 Question. Did it damage her?

Ans. Yes, sir; it hurt the boat, of course; it will hurt any boat that runs into a bank.

Question. Did not she be compelled to give up her trip and return?

Ans. Yes, sir; it did do that.

Re-examined by Mr. CAMPBELL:

Question. Have not you frequently known boats to have steered well,

and to have been remarkably well handled, occasionally to run into the bank?

Ans. Yes, sir; I have known several. I had to go into a bank once myself during my days steamboating.

Question. How wide are the Sabine's guards where she was struck?

Ans. I do not believe I would be able to answer that.

Question. Is she a large or small boat?

Ans. A small boat. I did not notice the guards; they must be very narrow on that point.

Question. Ought or ought not the Sabine, heavily laden, meeting another boat, to have taken extraordinary care in coming down the river from above that point, considering the fact that there was slack water below that point, and if her head got caught into it there might be danger of her taking a sheer into the shore?

Ans. I would say that the Sabine, or any other steamboat, coming down loaded, ought to be very careful to stand out far enough to avoid anything like the eddy forming under that point, and ought to be far out crossing over into the right hand bend.

Question. That is geographically?

Ans. Yes, sir; coming down stream, and speaking of that particular point.

Jurat waived.

JESSE MCHARVEY, sworn for the claimants and cross-libellants, says:

Examined by Mr. CAMPBELL:

Question. What is your business?

Ans. A ship carpenter.

Question. Where do you reside?

Ans. In New Orleans.

900 Question. Have you had anything to do with the repairs of the steamboat Richmond, growing out of the collision between the Richmond and the Sabine?

Ans. Yes, sir.

Question. State what repairs you put upon her.

Ans. We put in a portion of a new stem, and put up the old knee again in its place; put on twenty-one new outriggers, and repaired the deck; put up three guard stauncheons, and repaired the glass frame forward; forward that holds the jackstaff, and put one dock under her.

Question. How was the stem affected?

Ans. The stem was knocked over to starboard; then there was a hole in the larboard side; I suppose, from the lick of that wreck up there, from one of her deck beams.

Question. The Sabine's beams?

Ans. The Sabine's; there was a hole about the size of your fist, shoving right through on the larboard side of the Richmond; through the plank.

Question. How far aft of the stem?

Ans. Five feet.

Question. Is the stem of the Richmond strongly fastened, and very strongly too?

Ans. Yes, sir; the stem of the Richmond was strongly fastened, and it was a very good job.

Question. Do you mean the job you did, or the original job?

Ans. I mean the original job.

Question. What, in your opinion, caused the stem of the Richmond to be shoved over to the starboard side?

Ans. She must have got a side lick.

Question. How much was the bill after repairing the Richmond?

Ans. $517; that was for the temporary repairs, so that she could go up the river.

Question. Will she need any other repairs from the effect of this collision?

Ans. Yes, sir; she will either have to go on the big docks or have one or two small docks put under her yet, and about twenty-one, or more, new outriggers, to make her guard as good as it was.

Question. Is she leaking from that collision?

Ans. Yes, sir.

Question. In your opinion, as a shipwright, are further repairs necessary to put her in proper condition?

Ans. Yes, sir.

Question. Have you made any estimate on the costs of these additional repairs?

Ans. Yes, sir.

Question. For how much, in your opinion, could they be put upon her?

Ans. Seven hundred and thirty dollars.

901 Question. How much, in addition to that, would the docking cost?

Ans. To put her on big docks, I could not tell. That seven hundred and thirty dollars is including the small docks. I could not tell what it would be in big docks. I do not know her tonnage.

Question. Can you tell whether it will be necessary for her to go on big docks? What is your opinion?

Ans. It is necessary for her to have the repairs done in some way. If it can be done, it is as good if small docks are used. There is only one to two leaks near the knuckles, caused by being strained.

Question. Have you seen the wreck of the Sabine?

Ans. Yes, sir.

Question. When did you see it?

Ans. Yesterday evening. I left there I suppose about twelve o'clock. The dinner bell rung on the boat while I was there.

Question. Did you examine that break in the Sabine?

Ans. Yes, sir.

Question. Carefully?

A. Yes, sir; I made a pretty good examination upon it.

Question. Describe that break.

Ans. From the look of the break, it appears that she struck the Richmond along over the bow, and the Richmond swung round. The side of the Sabine, where she cut through, about five feet aft of the stem, has the appearance as if the two boats swung together, which tumbled the Sabine's side in about fifteen feet.

Question. In your opinion, how did the two boats come together, judging from the appearance of the break in the hull of the Sabine?

Ans. As far as I could tell, from the appearance of the wreck and the place where she was run into, I think that the Sabine must have been running square across the river, as it looks as though the Richmond cut in from aft upon her. The boats, as they then were, must

have been in the shape of the letter A or V when they came together.

902 Question. What was the appearance of the timbers of the Sabine forward of the break?

Ans. Well, her hud ends, as they call them on a steamboat, were all tore loose from the stem.

Question. What was the appearance of the timbers aft of the hole in her?

Ans. The appearance of having been broken off at the . I could have put my foot against them and pushed them in. They were loose.

Question. Was the appearance of that damage to the Sabine of such a character as to induce you to believe that the Richmond went into her head on?

Ans. She could not have done it. If the Richmond had have gone in head on, her stem would not have been knocked to one side.

Question. Was the appearance of the break evidence, to your mind, that it was a sharp blow or a mashing blow?

Ans. I think that they swung together, as I said before, and mashed in; that the cut right across her stem—just a side lick—shoved her side in when she came against the Richmond's bow.

Question. How wide are the guards of the Sabine where this blow was struck?

Ans. Not over three feet. The guards were narrow. I did not measure them, so that I could not tell exactly.

Question. Is the Sabine a strong boat or a weak boat?

Ans. Not very strong.

Cross-examined by Mr. MARR:

Question. Would you say, from what you saw of the Sabine, that the blow was a violent one?

Ans. It must have been.

Question. What part of the Richmond would you say first came in contact with the Sabine?

Ans. I think the first part of the Richmond struck the Sabine was her guard, right at that knee where it was upset. That was the only place that showed any marks.

Question. How far was that aft of the Richmond's stem?

Ans. About twelve feet.

Question. How far aft of the Sabine's stem does the break commence?

Ans. From where the Richmond's stem cut the plank off, it is about five feet.

903 Question. The stem of the Richmond, then, did come in contact with the plank on the Sabine?

Ans. Yes, sir; she must have done it.

Question. That plank is not crushed in, it is cut?

Ans. It a sort of bruised and broken in.

Question. Is it broken off short?

Ans. Well, sir, that plank is short, and some of them are torn off. It is a rough-looking break. It is bruised up a good deal.

Question. How is that break at the upper part of it, the torn part of the stem of the Sabine; does it go right down to the hold?

Ans. It goes right down. We could not see the bottom of it into the water.

Question. Did you see whether that break rounded out from the dock downwards, or what was the shape of it?

Ans. It looked, by the look of it, all tore up, rough and tumble in a pile. You could not tell much about it. A good part of it was in the water, and you could not see the under part of it.

Question. How far back did that break extend?

Ans. About fifteen feet from the break aft. The whole extent from her stem is about twenty-five feet.

Question. You spoke of its being necessary to put in twenty-one new guard timbers?

Ans. Yes, sir.

Question. How were those guard timbers on the Richmond broken?

Ans. It looks as if the cotton off the other boat had dropped down on the guard and started it down about eight inches.

Question. How did that knee seem to be broken?

Ans. It was shoved right over. I know that is the way it must have been done, because the outrigger where it rested was broke down.

Question. Did the knee have any bending one way or another; was it bent forward or aft, or any other way?

Ans. It was bent right square inboard.

Question. Was the plank of the guard of the Richmond round this knee broken?

Ans. Yes, sir.

Question. How far from the jack was it broken?

Ans. About two feet.

Question. How was the outrigger to which this knee was attached affected?

Ans. Broken square down, right at the end of the knee.

904 Question. Was it broken straight down?

Ans. Yes, sir.

Question. Was not this outrigger broken; broken off at the hole?

Ans. Yes, sir, broken in both places; in breaking in one it had to break in the other.

Question. It was broken in two places, then?

Ans. Yes, sir.

Question. Broken off at the hole, and how far from the hole?

Ans. I suppose about five feet. I could not tell exactly. I know I took a piece ten by fourteen feet long to make the outrigger.

Question. Would you say, from the appearance of both boats, that one or the other must have been going ahead?

Ans. I could not tell.

Question. Did not the break on the Richmond look as if the cotton had been mashed in, and that had broken the planking and hull of the Richmond?

Ans. No, sir; the cotton was above the hull and could not have shoved it in.

Question. What part of the Richmond, from what you saw, could have mashed in the hull of that boat, as it was mashed in?

Ans. It must have been the stem of the Richmond that done the cutting and squeezing of the Sabine's side in, as she swung across the Richmond's bow. The Richmond has got a hole where one of them deck beams of the Sabine run through the Richmond, and it must have been the side of the Richmond that squeezed the side of the Sabine in.

Question. If these boats came together in such a way that the lar-

board bow of the Richmond came in contact with the starboard bow of the Sabine, how would the boats have swung together; which way?

Ans. In the shape of the letter V (as was shown in foregoing exhibit); in swinging that way, I think the bow of the Richmond would have turned the bow of the other boat in.

Cross-examined by Mr. EGAN:

Question. What is the angle you give?

Ans. The letter V.

Question. When the boats were swinging together in that way, you think the Sabine could have swung with sufficient force to break off the knee of the Richmond?

Ans. No, sir.

Question. Then how was that knee broken?

905 Ans. I think from the first lick that was struck; that is, when the first lick was struck, and I think knocked it over.

Question. Put these boats in position there, so that the stem of the Richmond would strike the Sabine at the upper part of the break in the Richmond, and at the same time that the knee of the Richmond would come in contact with any part of the Sabine, so as to break it. Witness for answer presents the diagram "E" in answer already given, and says:

(See page 307 of manuscript, for diagram.)

The position of the boats when running together is just as I have placed them in the above diagram.

In accounting for the breaking of the knee, a diagram of which is hereto annexed, the witness describes as follows:

(See page 309 of manuscript, for diagram.)

"This knee being away out on the guards of the Richmond and about eight feet from the hull of the Richmond, and this knee being turned inboard, it shows that the boats could not, either one of them, have much headway, as it was a square break in, neither inclined forward or backward; the knee has three roots, one forward, one aft, and one inboard; there is an iron bolt in each one of these roots; the way the knee was knocked over inboard, neither one of the bolts, forward or aft, was broken, but they were bent as the knee went back; there is a bolt that goes right up through the centre of the knee, and is fastened on the top of the knee with a nut, and at the bottom with a square head, and goes up from below; this bolt was also bent right square back inboard."

Question. What part of the nosing of the Richmond was broken?

Ans. It was cracked in two places around that knee; where that turning over was, there was where it turned the nosing over; it was not badly broken by the collision, but we took it out; the nosing was not broken forward; it did not show a mark on it.

Question. Was there any mark of violence or breaking on the

906 forward chalk?

Ans. Not any more than a little sliver right at the knee; the nosing was rotten on the other side of the boat, the starboard, and that was the reason it was broken off.

Question. You went up yesterday at the invitation of the owners of the Richmond?

Ans. Yes, sir.

Question. To examine this wreck?

Ans. Well, no, not particularly; Captain Green came and said, would I ride up; and I said, I did not care, as I had nothing else to do; he said they were going up to the wreck.

Question. He told you the object of going up there after you got on board?

Ans. No, sir.

Question. Is not Captain Green one of the owners of the Richmond?

Ans. He is supposed to be

Question. Had he anything to do with the raising of the wreck?

Ans. Not to my knowledge.

Question. Who did he bring up there besides yourself?

Ans. Captain Bordeaux, Captain Woods, James Lusk, and Dan. Hawkins.

Question. Did you have any talk on the subject of the collision?

Ans. No, sir; not going up; after we got up there, we went up to the point to see

Question. Had you any talk coming down?

Ans. No, sir; I don't remember whether he made any remarks coming down or not; the talk coming down was principally how she came down along the bend, and was about how she got in under the point there.

Question. Did you not have a general talk in regard to the collision and the manner in which it occurred?

Ans. I had no talk going up.

Question. Did you have any talk coming down?

Ans. Well, just as I told you there; that was the whole talk.

Question. You had talk coming down with regard to the collision and how it took place?

Ans. They were all making remarks about it, one way or another.

Question. Did you all finally agree about it?

Ans. No, sir; no agreement about it.

By Mr. MARR:

Question. Must not the blow have been a very violent one?

Ans. Of course it must have been a pretty hard lick.

907 Question. How wide was the cut at the place where it first took place; at the guards of the Sabine?

Ans. There was about twenty-five feet smashed in, from one side of the break to the other, at the guards of the Sabine.

Question. How wide was it where the break ended amidships in the Sabine?

Ans. Six feet from where the stem was broken off; the balance was crushed in.

Question. The hole in the Sabine was about six feet wide?

Ans. Well, in that neighborhood.

Question. And extends to what distance?

Ans. It went in far enough to knock the capstan over; they have cut around a great deal of the deck in order to work.

Question. And it was narrower where it struck the capstan than where it commenced?

Ans. The forecastle side is now all cut off; it is all cut up, more or or less.

Question. You could not tell whether it would be narrower there, because part of the deck is cut off?

Ans. No, sir.

Question. You could not tell the form of the original cut?

Ans. No, sir.

Testimony taken before Alfred Ingraham, esq., United States commissioner, New Orleans, February 22nd, 1872.

United States district court. In admiralty.

SARAH C. SHIRLEY AND OTHERS
versus
STEAMBOAT RICHMOND. } No.

Testimony of John Langlois.....
Testimony of Charles Leeds.....
Testimony of Augustus S. Tayon.....
Testimony of John H. Burke.....
Testimony of John T. McCord.....
Agreements of counsel .....

Specially reported by C. W. Colton, phonographer, No. 18 Carondelet street.

908 It was agreed that the following testimony should be taken and used in all the cases of the same character:

JOHN LANGLOIS, sworn by Alfred Ingraham, esq., United States commissioner, on behalf of claimants.

By Mr. CAMPBELL:

Question. Where do you reside?

Ans. At Cape Girardeau, Missouri.

Question. Were you employed on board the steamboat Richmond at the time of the collision with the Sabine?

Ans. Yes, sir.

Question. In what capacity?

Ans. As second clerk.

Question. Where were you at the time they struck each other?

Ans. I was asleep in my state-room, in the forward part of the cabin, on the larboard side.

Question. What did you do then?

Ans. It woke me up.

Question. What else did you do?

Ans. I got up and put on my boots and pantaloons.

Question. How long did it take you to do that?

Ans. Perhaps half a minute.

Question. What did you do then?

Ans. I came out into the hall, and from there I went on the guards.

Question. Which guard?

Ans. On the larboard side.

Question. Did you meet anybody on the guard?

Ans. I met Captain McCord, coming in right at the door as I was going out.

Question. Who was Captan McCord?

Ans. Clerk of the steamboat Richmond.

Question. First clerk?

Ans. Yes, sir.

Question. State what occurred then?

Ans. He said, "John, there has been a collision here, and, for fear of

a lawsuit or anything of the kind, you go up on the roof and look at the lights of the boat."

Question. Well, what did you do?

Ans. I went up on the starboard side.

Question. Where did you go to?

909 Ans. I went alongside the chimney and saw the green light hanging on the starboard chimney; I crossed over to the larboard side, and saw the red light hanging on the larboard chimney, both burning brightly.

Question. Were you on the hurricane roof at that time?

Ans. Yes, sir.

Question. State whether or not the lights were in their proper places.

Ans. They were, and were burning brightly; both lights.

Question. How far were they from the tops of the chimneys?

Ans. I don't know.

Question. About how far?

Ans. About three or four feet, as near as I could judge.

Question. Which side of the chimneys were they on?

Ans. On the outside of each chimney.

Question. Did she carry any other lights?

Ans. One at the after end of the texas.

Question. Is that all you know about this collision?

Ans. That is all I know about the collision; my observation of all the lights occurred just before the other boat blowed for assistance.

Question. How long after the collision was it that you went up to examine the lights?

Ans. Well, it couldn't have been very long; maybe three or four minutes.

Question. As soon as you got on your boots and met Captain McCord, and he told you to go up, you immediately went up?

Ans. Yes, sir; I immediately went up.

Question. The other boat, you say, blowed for assistance?

Ans. Yes, sir.

Question. Did the Richmond go to her assistance?

Ans. The Richmond went immediately; as soon as she could get to her.

Question. How long did the Richmond remain by her rendering her assistance?

Ans. Well, she laid there from the time that the accident occurred (somewhere in the neighborhood of three o'clock) until next evening about ——; I don't exactly know what time it was; it was three or four o'clock in the evening; I didn't pay any attention at the time.

Question. Did she take off the passengers or any of the property of the wrecked boat?

Ans. She took all her passengers off, and three hundred and twenty-nine bales of cotton, and the furniture and outfit; she moved the movable furniture off the boat.

910 Question. Did the Richmond remain there until assistance came from the city?

Ans. Yes, sir.

Cross-examined by Mr. EGAN:

Question. Where did you say your berth was?

Ans. On the larbord side, second room forward, in the main cabin.

Question. You did not see any of the collision?

Ans. No, sir.

Question. You got up how long afterwards?

Ans. Well, I got up immediately after the collision occurred; the shock woke me up.

Question. Did you put on all your clothes?

Ans. No, sir; I put on my boots and pants.

Question. Where was Mr. McCord?

Ans. I met him at the door, as I was going out on the larboard side.

Question. At the door of the cabin?

Ans. At the hall door.

Question. Was he coming in?

Ans. Yes, sir.

Question. Was he fully dressed?

Ans. Well, I don't know whether he was or not; I think he was; I think he had his boots and light overcoat on; I don't think he had any undercoat on; I was not aying particular attention to his dress; I think he had a spring overcoat on; I don't think he had any other coat underneath.

Question. Is it the duty of the first clerk to tell you to see about the lights?

Ans. Yes, sir; it is the duty of all the officers of the boat to look out for the interests of the steamboat; that is the way I consider it when I am employed on a steamboat.

Question. How long after the collision was it that you went to look at the lig'ts?

Ans. Just as quick as you could walk, or I could walk, up a pair of steps and up on the boat; I don't know exactly how long it was; two or three minutes, perhaps.

Question. Is it not the duty of the watchman of a steamboat to take care of the lights?

Ans. Why, certainly it is his duty.

Question. Do you know whether he atttened to his duty?

Ans. He certainly must have done so, or they would not have been hanging up there

911 CHARLES LEEDS, sworn by Alfred Ingraham, esq., United States commissioner, on behalf of claimants.

By Mr. CAMPBELL:

Question. What is your business?

Ans. Piloting.

Question. On what river have you been piloting mostly?

Ans. I am piloting on the Ohio and Mississippi both; from St. Louis to New Orleans, lately.

Question. How long have you been piloting on the Mississippi River?

Ans. I have been piloting twenty years and over.

Question. What boat are you on now?

Ans. On the Tom Jasper.

Question. Are you familiar with the river between New Orleans and Cairo?

Ans. Yes, sir; reasonably, as much so as anybody.

Question. Do you know the proper course for an ascending boat after she leaves Carrollton until after she passes Twelve Mile Point?

Ans. I think so.

Q. State what that cause is.

Ans. The boats, in leaving below Carrollton, more or less differ in their course to Carrollton; I usually cross the river the lower part of

Carrollton and keep up around Nine Mile Point, which is the left-hand point going up; I go up the point about a quarter of a mile above the point, or where there used to be an old negro fort, but it is not a quarter of a mile above the fort upon a stright river, and hold up a little below the Twelve Mile Point; make a long crossing, and go within a quarter of a mile of the right-hand shore, and keep that course until around the point; different steamboats make a difference in that part of the river; our St. Louis steamboats, generally speaking, are heavy in going up there, and the heavier the boat is the better water she wants to be in, the better she will steer and the better you will manager her; a light-boat can run in places where a heavy boat cannot run.

Question. What difference do they make when they are loaded light or heavy in running up under that point?

Ans. These little boats that have been going here on the coast, drawing from three to four feet, run almost any place.

Question. Going up?

912 Ans. Either up or down; they can go across the boat, or behind her, any way they can get; they have got no regular way of running the river; our boats have a regular way of running the river at almost every crossing in the river; the boats are heavy, and, most usually speaking, they are pretty fast, and the pilot requires something to hold his boat on to manage her, and has to adopt certain rules to be able to go to a certain place with safety.

Question. A boat that is lightly loaded, going up stream, would she go nearer or hold further out from the shore under Twelve Mile Point?

Ans. She would be likely to go closer; the lighter the boat is, the closer to the shore she can go.

Question. Do I understand you to say that the usual course for ascending boats in the Mississippi River is to make a long crossing from above Nine Mile Point to about a mile below Twelve Mile Point, and there go up on the right bank?

Ans. About a quarter of a mile above Nine Mile Point brings a man up into the straight river; for instance, going around the corner of the table here, you strike the straight part of it; you make a long crossing and catch the slackwater on this side (describing the movement); you go then in about a quarter of a mile of the right-hand shore, but they may be not so close, or a little closer; but that is their object, to go about that distance.

Question. What is the usual and proper course for a descending boat coming down the river, above Twelve Mile Point, when she reaches Twelve Mile Point, or just above Twelve Mile Point?

Ans. Well, a boat in coming to Twelve Mile Point (a down-stream boat), as a matter of course, is always looking for up-stream boats; I consider it the duty of the pilot, in coming down Twelve Mile Point, to give it a pretty wide berth; circle around it and keep in that course, circling gradually until he comes into the straight river, or into the point which is opposite to the lower part of Twelve Mile Point; to be within a quarter of a mile of the right-hand shore, and keep that course until he gets clean down to Nine Mile Point.

Question. When you say the right shore, you mean the right-hand shore coming down?

Ans. The right hand shore of the point coming down.

Q. You say her duty would be to strike off well into the river?

913 Ans. She would circle around Twelve Mile Point; I say it is the duty of the pilot in coming down to pass Twelve Mile Point and circle out into the river, and keep well out into the river, say about a

mile, until he reaches the straight part of the river, or until he can see down the river below him, and keep in that course; when he gets to this straight part of the river he is more than a quarter of a mile from the right-hand point shore.

Question. Is it usual for descending boats to hug Twelve Mile Point, and keep down the left-hand shore under Twelve Mile Point?

Ans. No, sir, it is not usual; or, in other words, it would be better to say it is not proper.

Question. What effect would it have upon a heavily laden descending boat for he' to hug Twelve Mile Point, and keep down the left-hand shore, if her head struck the slackwater below the point; what effect would it have upon her course?

Ans. Well, really, I don't know very well; as a matter of course, the tendency would be to have the current on one end and the slackwater on the other; the tendency would be that the current would naturally pull the stern down and pull her out of shape.

Question. Heading in which direction?

Ans. Towards the left-hand shore.

Cross-examined by Mr. EGAN:

Question. Is the stage of the water now low, or what?

Ans. Yes, sir, the river is considered low; not at its lowest, but low.

Question. There is not much current anywhere?

Ans. No, sir, not much; particularly on the coast here there is very little current.

Question. You have said, I believe, that there is no usual or customary track for these small boats?

Ans. They are pretty much anywhere, I believe; it appears so.

Question. When they would gain nothing by going over from the points, they might just as well take the points?

Ans. Well, no, sir; they might not just as well do it, because the usual practice of pilots with descending boats is to keep clear of ascending boats, and to do that they must keep as far apart as possible; one boat belongs on one side of the river, and the other on the other side.

Question. Have you ever been a pilot on one of these small boats?

Ans. Yes, sir.

914 Question. Running in the Ouachita and Red Rivers?

Ans. No, sir.

Question. What small boats do you have reference to?

Ans. That I have been on?

Question. Yes, sir?

Ans. Well, I have been on several very small boats; I have been on a steamboat that wouldn't carry more than a hundred and fifty tons; I was on the steamboat Hudson; she wouldn't carry more than a hundred and fifty tons; then I was on the Nightingale; she would't carry over four hundred tons; I could name several boats.

Question. Where did they run to?

Ans. The Hudson runs from LaCrosse to St. Paul now; but when I was on her, she was going down the river to St. Louis.

Question. I ask you whether you have ever been on one of those small boats in the coast trade?

Ans. No, sir.

Question. Do you know what their custom is?

Ans. No, sir; I don't know anything about them, outside of just seeing them.

Question. Is it not customary with the lower coast boats, Red River and other boats, to take all parts of the river?

Ans. Well, I just said that a while ago—that they go pretty much every place, without much regularity.

Question. Do they not have a great deal of business to perform on the coast occasionally?

Ans. Well, I don't know that Red River boats have; I believe the coast packets most generally do *taht*.

Question. Some of the Red River packets take some, do they not?

Ans. Not to my knowledge; I don't know whether they do or not.

Question. Is the Richmond a large boat?

Ans. She is considered a large boat.

Question. Of about how many tons, do you suppose?

Ans. I presume the Richmond in tonnage is about fifteen hundred, or somewhere in that neighborhood.

Question. Were you ever employed on her?

Ans. I never was.

Question. If you were on the Richmond, going across from Nine Mile Point, and you saw another boat inside of you, would it be prudent to keep on, or take the inside of her?

Ans. No, sir; it would not.

915 Question. About what distance would it be prudent to go with the Richmond, in this stage of the water, from the left bank of the river, under Twelve Mile Point?

Ans. It would not make any difference to me which side I went, so that I could avoid a collision; I would go either.

Question. That is not an answer to the question.

Ans. In going up stream, Twelve Mile Point is on the right going up, and on the left coming down.

Question. How close ought it to run?

Ans. Well, a man couldn't hurt the Richmond any by going in there; the only trouble he would encounter in going clean in there would be to get aground; there is nothing in there to hurt a boat; a boat of that class wouldn't want to go more than a quarter of a mile of the shore.

Question. How wide is the river there?

Ans. I presume it is about a mile and a quarter in width, as near as I can come to *to* it; I have no means of knowing.

Question. Is there a bar on Twelve Mile Point?

Ans. Well, there is a small bar; it does not project out into the river, except a very short distance; all these points have more or less bars; but Twelve Mile Point doesn't have much of a bar; a little, but not much.

Question. Is there a bar underneath it?

Ans. There is a flat shore called a bar, or a flat shore.

Question. Do some boats run further than a mile up that shore of Twelve Mile Point, and others?

Ans. I know that all run up Twelve Mile Point until they get around it.

Question. But I mean the distance you run below it?

Ans. The course of these big boats, at least all I have been on, and all I have met, and we are pretty conversant with each other's rules, the course is into the shore, holding off about a half a mile below Twelve Mile Point, or in that neighborhood, and keep that course at about a quarter of a mile of the shore, and keep up that way until you get around Twelve Mile Point—not closer; I don't think a man could steer a boat much closer than that.

Question. Would there be any danger of the boat taking a sheer on him if he did go closer?

Ans. Yes, sir, with a boat of that class there would.

Question. You said that you had never been employed on the Richmond?

Ans. I never was.

916 Question. Do you know anything about her character for steering?

Ans. Well, I have heard that a man had about as much as he wanted to do to steer her; I have heard that; I don't know anything about it; of my own knowledge, I don't know; that is only hearsay; that is her character.

Question. What is her general reputation on the river for steering?

Ans. Well, that is about it—what I have said; all boats of that class require the same thing; some steamboats steer harder than others; she has always borne the reputation of being a boat that required a man to be on the alert all the time.

Question. Would there be any difference when the water was high or when the water was low, as to the tracks boats would take?

Ans. Do you mean in going up or coming down?

Question. Going up?

Ans. In going up, the higher the river is the closer the boat can run to the shore; under Twelve Mile Point is one of those peculiar places where you can run up the same distance in low water that you can in high water; right immediately at the point, in high water, it forms an eddy, and the boat can do just as well in low water as she can in high water; I speak of big boats.

Question. Is it not the duty of the ascending boat to give way to the descending boat?

Ans. The intention of the law, I believe, in regard to whistling—or at least it is so understood by pilots—that the ascending boat shall give the first signal, and that it is the duty of the descending boat to answer that signal, and the ascending boat is to keep out of the way of the descending boat; that is my interpretation of it.

Question. When a descending boat is coming down the river, at this stage of water, at the rate of eight or nine miles, would it make any difference whether her stern was in an eddy or her bow in an eddy?

Ans. It would just round her to.

Question. It would have an effect on her, though she was going faster than the current and the eddy?

Ans. It would make a difference, and it would not alter the two currents; when one is going up and the other coming down, it is bound to effect the boat and let her speed up.

Question. How do you account for that, when the boat is going faster than that current?

Ans. She is going faster than one current, but the other current catches her and counteracts her.

917 Question. Does it counteract sufficiently to make the other current act upon her?

Ans. Yes, sir; one end wants to go faster than the other.

Question. That is only a belief of yours in regard to the current; have you ever tried it?

Ans. No, sir; it is not a belief. It is knowledge, experience.

Question. That the current would have an effect?

Ans. Yes, sir; it is bound to make a difference.

Question. Would it make a difference if she was going at a gre t speed?

Ans. It would make a difference. The currents would make a difference both on fast and slow boats.

Question. Does not the pilot usually steer to counteract the effect of that?

Ans. Yes, sir.

Question. Would steering counteract its effect?

Ans. Steering would counteract it by keeping away from it entirely.

Question. Suppose it would be necessary to run into that, would not steering counteract the effect you have spoken of?

Ans. It might prevent them from swinging down a little bit faster. It would not keep them from swinging down entirely. When a boat's bow strikes bottom, the rudder will not keep her stern from swinging down. The pilot may pull as hard as he pleases. A pilot cannot prevent a current, and canno' save his boat when she gets aground from striking down on him; he cannot help it.

Question. In the one case the boat is stopped entirely, and in the other case she is going at the rate of eight miles an hour?

Ans. The pilot and the rudder, altogether, will not counteract the current. It will assist to a certain extent, but it will not counteract it.

Question. A boat cannot run, then, from a current into eddy wat without being swung around?

Ans. She may not swing clean around, but if she keeps that course long enough she will swing around.

Question. How long would it take a boat running eight miles an hour to pass from a current to an eddy?

Ans. A boat running that way, coming down stream, when her bow strikes the eddy it would take about five minutes to swing her. In that case she would be certain to swing around. I have known several boats to sink in just such predicaments as that.

Question. You have not comprehended the question exactly;
918 how long would it take a boat running at the rate of eight miles an hour to run from a current into an eddy; that is, to take her whole body into the eddy?

Ans. At the rate of eight miles an hour?

Question. Yes, sir; and to go a little further, suppose she was a hundred and fifty feet long?

Ans. To run from one end of her to the other out of the current it would depend upon the angle that she would be pointed at it. If we were trying to keep her out of it she might be five minutes getting her full length into it, and probably when her bow was pointed right at it it would not take her over two minutes.

Question. Would it take her that long?

Ans. I did not expect to state all this to a minute or a half a minute, or the length of her. I am not able to answer questions like that.

Question. How many minutes would she take to run a mile, if she was running eight miles an hour?

Ans. I don't know. I am not scholar enough to figure that up. It would be about a minute or a minute and a half, I guess. I cannot answer such questions. It would take time for me to figure it up. It would take her a minute or a minute and a half to run her length from a current into an eddy.

Question. You think it would take a minute or a minute and a half to get her whole length from a current into an eddy?

Ans. I think it would take her from two to three minutes, or something of that kind.

Redirect by Mr. CAMPBELL:

Question. You spoke in your cross-examination of these little boats running pretty much where they pleased; I ask you the further question whether, although they were little boats, they have got the right to run pretty much where they please?

Ans. Well, I think not.

Question. If the Richmond was light, could she run closer to that shore under the Twelve Mile Point than if she were heavily loaded?

Yes, sir; certainly she could, if she wished to.

Question. Do you recollect how the bank is, immediately around that point?

Ans. Around which point.

Question. Twelve Mile Point?

Ans. Certainly.

919 Question. Is it bluff, or is it shoal?

Ans. It is a flat shore. In extremely low water it is very difficult; in fact, you cannot go into the shore at all in extremely low water. I have had freight on two or three occasions to put out there and had to send it out in a yawl.

Question. Right at the point, how is the bank?

Ans. At the extreme upper part of the point it is pretty deep.

Question. Do you know Mr. Charles Duffey, who was pilot of the Richmond?

Ans. Yes, sir.

Question. Do you know his character as a pilot?

Ans. Yes, sir.

Question. How does he stand as a pilot?

Ans. He stands as good as anybody.

Question. Do you know Mr. Frank Cayton?

Ans. Yes, sir.

Question. How does he stand?

Ans. He is the same way.

Cross-examination resumed by Mr. EGAN:

Question. If the Richmond were drawing eight feet of water, how far ought she to go from Twelve Mile Point?

Ans. As I said before, the usual way of running—for almost all of them have one way of running it—is to go within about a quarter of a mile of the shore, and keep in about that direction, and that distance from the shore, until they get up to the extreme upper part of the bend—not the extreme upper part of the bend, but the extreme lower part of the bend. There it deepens, and the shore becomes bluff. They can go in and land there; all around from the lower part of the bend they can land.

Question. How long is the point across; how wide is it across?

Ans. Across that point it is about a mile in length; probably more. I reckon it is more than a mile in length where the boat runs around the bend and crosses the river again.

Question. How far underneath the point is it deep?

Ans. There is a small growth of willows about a half of a mile below the point where the shore streaks off, what we call the extreme part of the point; but in low water we have landed the steamboat just above the foot of those willows where the banks are cut. It is only a short distance below the point.

Question. How far is it; is it a hundred feet?

Ans. Yes, sir; more than that.

920 Question. Two hundred feet?

Ans. It is more than that, I reckon.

Question. About what distance is it?

Ans. Well, I expect it is about a quarter of a mile, maybe, or a little less.

Question. Is there a bar underneath the point?

Ans. It is a flat shore or a bar. It is rather to be considered a flat shore. It is not what they call a bar; it is a flat shore.

Question. Are the banks bluff on the shore, or flat?

Ans. It is a flat shore.

Question. Are the banks flat on the point?

Ans. On the point it is bluff.

Question. Is there any rule or law preventing a steamboat from taking either side of the Mississippi River?

Ans. Well, I really cannot answer that question whether there is any law or not.

Question. Is there any rule or custom?

Ans. The rule or custom of pilots is, for the down stream or descending boat to keep as near the channel of the river as possible.

Question. That is not what I asked you; is there any law or rule to prevent a boat from going to either side of the river; could not a boat land five times underneath a bend if she chose to?

Ans. I don't know that there is any law at all to keep boats from landing. There are rules established by pilots, or at least an understanding or custom whereby it is generally understood that the descending boat keeps as near the deep water as she can.

Question. Has not a boat a right to land on either side of the river?

Ans. I suppose she has got a right to land wherever she pleases.

Question. And keep what shore she pleases?

Ans. No, sir; you mix the two questions up. There ought to be two separate and distinct questions. She has got a perfect right to land anywhere she pleases, but do not understond me to say that she has got a right to run where she pleases.

Question. Suppose a boat put out from above the point and desired to land immediately below it, has she got to cross to the other side of the river and come back to that place to put out the freight?

Ans. Well, no, sir; I reckon not. A boat has got a right to land wherever she pleases. If she has got to land twice in a hundred yards, she hasn't got to cross the river to do it, I reckon.

921 Question. If she had to land twice in two miles, has she got to cross the river to do it?

Ans. I can answer the question easy enough; if I was going to land twice in two miles, in that part of the river, I would cross the river, particularly if there was a boat coming up the river, or a boat coming down, or a boat coming in an opposite direction from me; I would rather run across the river two or three times, if by that means I could avoid trouble.

AUGUSTUS S. TAYON, sworn by Alfred Ingraham, esq., United States commissioner, on behalf of claimants.

By Mr. CAMPBELL:

Question. What is your business?

Ans. A pilot.

Question. How long have you been a pilot on the Mississippi River

Ans. I have been a licensed pilot for ten years.

Question. Are you familiar with the Mississippi River and its navigation?

Ans. Yes, sir.

Question. And the rules regulating the piloting of steamboats?

Ans. Yes, sir.

Question. Will you please state the course of an ascending steamboat like the Richmond when she leaves Carrollton, or when she leaves the elevator?

Ans. A steamboat, leaving Carrollton, runs up the right-hand shore until she gets above Carrollton, and then over to the left-hand point, or Nine Mile point, and around Nine Mile Point to about half way between Nine Mile point and Twelve Mile Point, and then she drops around under Twelve Mile Point and takes a long crossing under Twelve Mile Point.

Question. What does she do then?

Ans. She goes up the point and keeps the right-hand shore.

Question. How far below Twelve Mile Point is it before she strikes up the shore, after she has got over there?

Ans. Well, a man can strike up almost anywhere along the right hand shore, but, generally speaking, we go, say, a mile or a mile and a half under the point before we strike up with the shape of the shore.

Question. How far do you hold out from the right-hand shore, going up?

Ans. It depends upon the stage of the water and the boat.

922 Question. Say a boat like the Richmond and the river at its present stage.

Ans. About a hundred and fifty yards from the shore.

Question. Would you consider a boat pursuing that course as pursuing the proper and usual course for an ascending boat?

Ans. Yes, sir.

Question. What would be the proper and usual course for a descending boat coming down the river above Twelve Mile Point, when she should approach the point?

Ans. Well, the proper course for a boat in descending the river, in the neighborhood of Twelve Mile Point, is not to approach the point at all; the down stream course is to have one-third of the width of the river on her right, and about two-thirds on her left, giving the up stream boat the privilege of the point.

Question. State whether or not it is usual for the down stream boat to run in the current of the bends.

Ans. It is customary for the down stream boat to run in the current.

Question. Then, as I understand you, the proper course for a descending boat coming around Twelve Mile Point would be about one-third the distance from the right-hand shore coming down?

Ans. Yes, sir.

Question. Would the descending boat be in her proper place if she were to attempt to go close around Twelve Mile Point, or hug the left-hand shore coming down?

Ans. No, sir; she would not.

Question. What effect would it have on the descending boat if she were to come around Twelve Mile Point, hugging it close to the left-hand shore, and her head should be caught in the slack water?

Ans. The probability would be that it would round her to.

Question. Are you acquainted with Charles Duffey, who was pilot on the Richmond?

Ans. Yes, sir.

Question. What is his reputation as a pilot?

Ans. Number one.
Question. And Frank Cayton?
Ans. Number one.

Cross-examined by Mr. MARR:

Question. What sort of a Point is Twelve Mile Point?
Ans. A sharp point.
923 Question. What is the character of the water under Twelve Mile Point, and along down that shore?
Ans. It is slack water under the point.
Question. But as to its depth?
Ans. Well, I have not given the lead there; I don't know exactly the depth of the water; but it is not customary to throw any leads, on account of its being very deep.
Question. Do you know anything of a bar under Twelve Mile Point?
Ans. Well, there is what we term a shore bar; it cannot be considered a bar, but a flat shore.
Question. How far does it extend out into the river?
Ans. In this stage of the water, I don't suppose it extends fifty yards from there.
Question. How far down the river does it extend?
Ans. I don't think it is over a half of a mile under the point.
Question. What sized boats have you been navigating?
Ans. The largest class.
Question. What boat are you on now?
Ans. The Thomas Jasper.
Question. How long have you been running in this lower river?
Ans. About thirteen years.
Question. Where have you been running to?
Ans. From St. Louis to New Orleans.
Question. Have you been in that trade all that time?
Ans. Well, the principal portion of the time.
Question. After a boat has rounded Nine Mile Point, is there any obstruction to prevent her seeing a boat that is at or about Twelve Mile Point?
Ans. I think you could see her smoke over Twelve Mile Point; I am positive you could see her under Twelve Mile Point.
Question. Is it not a straight river from Nine Mile Point to Twelve Mile Point?
Ans. Yes, sir.
Question. You know nothing of that bar?
Ans. I know there is what we term a shore bar; it cannot be considered a bar, exactly.
Question. You have never taken any means to ascertain the depth of water, nor how far it extends out in the river, nor how far it extends down the river?
Ans. Nothing more than my judgment; I never tried it.
924 Question. Did you ever land a big boat in there?
Ans. I have never landed in there; I have run several large boats up that shore.
Question. How far do you stand out?
Ans. It depends upon the stage of water.
Question. In the present stage of water?
Ans. About a hundred and fifty yards.
Question. You found no difficulty there?
Ans. No, sir.

Question. If a boat was coming down around Twelve Mile Point, and standing out, as you say, would it be possible for a boat that had already rounded Nine Mile Point to fail seeing where she was?

Ans. Not if she was above Nine Mile Point.

Question. I ask you, if a boat was rounding, or if a boat was anywhere around Twelve Mile Point, would it be possible for a boat going around Nine Mile Point not to see the boat coming around Twelve Mile Point?

Ans. No, sir; I don't think so.

Question. Which boat is the most easily handled, a down stream boat, with an ordinary down stream load of cotton, or an up stream boat, with an ordinary up stream load?

Ans. Well, I don't think that there is much difference.

Question. Can you handle a down stream boat, heavily loaded, as you can an up stream boat?

Ans. We generally do, sir.

Question. Have you ever had a load of cotton on a boat?

Ans. No, sir; but I have been on steamboats loaded with other freight just as heavy as cotton, not altogether cotton.

Question. Do you mean to say that a boat that is loaded down with a down stream load is as easily managed as a boat that is going up stream, with a cargo on board?

Ans. I do not consider there is much difference; they are, probably, not so easily handled, but there is very little difference.

Question. Can you change her course as easily?

Ans. We generally do.

Question. Can you move her as fast?

Ans. Not quite as fast, but we always manage to move her sufficiently to answer all purposes.

Question. I am not asking you that; I am asking which is the most easily handled and managed.

Ans. Well, that is a very difficult question to answer.

Question. But you can tell; does not your experience enable
925 you to state which is the most easily handled?

Ans. My experience is this, that I do not think there is much difference, to a man who knows his business.

Question. Is there a difference?

Ans. Yes, sir.

Question. In whose favor is it?

Ans. That would depend upon what kind of boats they were.

Question. Did you ever steer the Richmond?

Ans. No, sir.

Question. Do you know what her reputation is for steering?

Ans. Not from experience, sir.

Question. Reputation is not experience.

Ans. I couldn't say anything about her steering, because I have never steered her.

Question. You know nothing of her reputation for steering, generally?

Ans. Yes, sir; I do.

Question. Well, that is the thing I ask you.

Ans. She was, when she came out first, represented to be a hard steering boat, but there have been alterations made in her, which, I understood, bettered her considerably; she is considered at the present time, I think, an average steering boat.

Question. Do you not know that the Richmond is one of those boats that run off when they get on shoal water?

Ans. No, sir; I do not.

Question. Do you not know that most of the large boats run off from the pilots when they get on shoal water?

Ans. Any steamboat will do that.

Question. Do you know anything about the Richmond having run into the bank; run away from her pilot and run into the bank?

Ans. I have heard of it; I don't know anything about it personally.

Question. Did that not happen to her more than once?

Ans. Not to my knowledge.

Question. That is since these alterations were made in her steering apparatus?

Ans. I think that accident, or that running into the bank, happened before these alterations were made, if I am not mistaken.

Question. If you were at the wheel of a boat of the class of the Richmond, and were within a few hundred yards, say two hundred yards below Twelve Mile Point, and were within one hundred yards of
926 the shore, with the bow pointing into the shore, could you round Twelve Mile Point without stopping and backing out and going further out into the river?

Ans. No, sir; not if she was under headway.

JOHN H. BURKE, sworn by Alfred Ingraham, esq., United States commissioner, on behalf of claimants.

By Mr. CAMPBELL:

Question. Have you ever been a pilot on the Mississippi River?

Ans. Yes, sir; I am licensed for piloting for several years.

Question. What have you been doing since you stopped piloting?

Ans. I have been commanding different steamboats.

Question. Can you state what is the usual and proper course for an ascending boat, after leaving Carrollton, until she gets past Twelve Mile Point, or about Twelve Mile Point?

Ans. It is customary to keep around Nine Mile Point until you get above it entirely, some little distance, and from there to cross over to Twelve Mile Point, and make a long crossing.

Question. How far would you go after you had made your crossing from Nine Mile Point, going to the right hand shore, before you strike up the right hand shore going up?

Ans. I suppose about half a mile or three quarters below Twelve Mile Point.

Question. How close would you run your boat going up that point to Twelve Mile Point?

Ans. In the present stage of water, not closer than a hundred yards.

Question. How close would you run a boat of the size of the Richmond?

Ans. I would run about that distance with a ny large steamboat.

Question. What would be the proper course for a descending boat, approaching Twelve Mile Point, coming down the river?

Ans. She would follow the points above Twelve Mile Point until she got to the point; from there she would wear off towards the right hand shore, coming down.

Question. What is the proper course for a descending boat after she wears off above the point; what part of the river should she come down in?

Ans. Well, sir, at least two-thirds of the width of the river should be left on the left hand, coming down, in that part of the river.

927 Question. Would the descending boat be in her proper and usual course if she were to hug Twelve Mile Point and run close into the left hand shore, coming down?

Ans. No, sir; she would be out of her place, to a certainty.

Cross-examined by Mr. MARR:

Question. Captain Burke, how is the water on and around Twelve Mile Point?

Ans. Well, on the point the water is deep, and around the point and until you get under it, and then the shore flattens out somewhat; how far I don't know, or what depth I don't know.

Question. Would you consider the whole of the Mississippi River free to any boat, if there is no other boat there, and if there is water enough?

Ans. I do, sir.

Question. Is there any rule that would require a boat to go rather on one side than on the other?

Ans. Yes, sir; any steamboat coming down the river loaded would prefer to keep in the main current of the river; in that part of the river the current would be some distance from shore.

Question. How far does the current run from the rounding off of Twelve Mile Point; how far is it from the point to where there is a current?

Ans. Do you mean immediately on the point?

Question. Yes, sir.

Ans. On the point there is a current.

Question. And plenty of water for any boat?

Ans. On the point? Yes, sir.

Question. Down stream or up stream?

Ans. Yes, sir.

Question. Do you know any reason why a boat, coming down stream, there being no other boat near, should not go around that point close?

Ans. Well, yes, sir; on the point there would be a current, and below it there would be none; after passing the point she would get into slack water after turning around under the point.

Question. That is the only reason?

Ans. Yes, sir.

Question. How far out does the slack water extend under Twelve Mile Point?

Ans. Do you mean what distance?

928 Question. Well, coming down that shore for a mile and a half or a mile, how far is it from the shore that the slack water extends?

Ans. Well, the current leaves the shore gradually from the point.

Question. Well, say you were two hundred yards under Twelve Mile Point, how far from the shore is it that the slack water extends out into the river?

Ans. Well, I should suppose it would be seventy-five or eighty yards.

Question. Well, from a hundred and fifty to two hundred yards out from that shore you would be in a current?

Ans. You would be in a current, but not so strong as if you were further out.

Question. But still you would be in the current?

Ans. Yes, sir.

Question. Do you know anything of that bar under Twelve Mile Point?

Ans. No, sir.

Question. You know nothing about it all?

Ans. No, sir; there is only a flat shore there.

Question. You do not know the depth of water on that bar?

Ans. No, sir.

Question. You do not know how far down the river it extends?

Ans. No, sir; I am not in the habit of going very far down below that point.

Question. You do not know the width of that bar?

Ans. No, sir; I couldn't tell you with any accuracy at all.

Question. Do you not know that the usual course at the present stage of water for a boat navigating that part of the river, and going up, is to make well the rounding of Nine Mile Point, and run up about a mile, opposite Kennedy's house, and then run up close to Twelve Mile Point?

Ans. They do not run that distance usually above Nine Mile Point before they do that.

Question. How far do they go above Nine Mile Point before they hold over to Twelve Mile Point?

Ans. I suppose about a mile.

Question. Do you know where Kennedy's house is?

Ans. Can you tell me the name of the plantation?

Question. No, I couldn't tell you now; it is the Labranche plantation, I believe.

Ans. I know where it is.

Question. Do you not run up as far as the dwelling there on the Labranche plantation?

Ans. No, sir.

929 Question. Whenever you begin to cross, after getting around Nine Mile Point, do you not hold well off Twelve Mile Point?

Ans. We generally hold a mile under Nine Mile Point.

Question. Is there not some little trouble if you hold into that shore with a big boat like the Richmond; if you fall into that bend and strike up within seventy-five or a hundred yards of the shore, is there not some trouble in rounding Twelve Mile Point?

Ans. Not in that distance; I don't think there would be for any big steamboat.

Question. Have you lately run a steamboat that way?

Ans. I think I have been running under that point all this winter; on the point and under it; in the way I have described.

Question. How far do you hold in generally?

Ans. Well, about a half a mile, or three-quarters of a mile below the point.

Question. How far do you fall in from the shore there?

Ans. At that distance below the point, I suppose it would be two hundred yards.

Question. You would strike up within two hundred yards of the shore?

Ans. Not strike up with the shore, but strike up about that distance.

Question. About that far from Twelve Mile Point?

Ans. Yes, sir.

Question. Hollowing out more to the opposite shore, so as to leave the point fully open?

Ans. Yes, sir.

Question. You could navigate that course until you made the rounding of Twelve Mile Point would you not hold off and run out so as to make it?

Ans. No, sir; when you first go into the right hand shore, I suppose it would be about two hundred yards from the shore; but when you get up nearer the point, or half way to the point, I don't think it would be more than one hundred yards from the shore; we wouldn't go any closer than that.

Question. After you have rounded Nine Mile Point, is there any obstruction to prevent your seeing a boat fully, that is at or about Twelve Mile Point, coming down?

Ans. Not if it was clear.

Question. Can the lights of a boat be seen well by a boat that has well rounded Nine Mile Point and going up; can the lights of a boat coming down be seen?

Ans. Some boats' lights can be, and others cannot; some of them are very dim; and you couldn't see more than half that distance if it was foggy or dark or misty.

930 Question. But ordinarily?

Ans. On an ordinarily light night you could see that distance.

Question. What is the distance after you have well rounded Nine Mile Point up to Twelve Mile Point?

Ans. It is very near three miles; that is the distance given on shore.

Question. It is a straight open river.

Ans. Yes, sir.

Question. And wide?

Ans. Yes, sir; a wide river.

Question. And plenty of water on either side?

Ans. Plenty.

Question. Is there any reason why a boat, after having rounded Nine Mile Point and going as far up as they usually go, and intending to round Twelve Mile Point, should not hold straight to the point, and go around, rather than drop in and strike up with the shore below Twelve Mile Point?

Ans. The reason of their dropping in on this shore is to get out of the current under Twelve Mile Point.

Question. To get the advantage of the slack water?

Ans. Yes, sir.

Question. Would you consider, if you were going up stream, and had rounded Nine Mile Point, and if there was another boat coming down, under Twelve Mile Point, would you consider the advantage of the slack water a sufficient reason to run the risk of a collision by running over there?

Ans. No, sir; I would not; I should certainly avoid a collision, if I could do it.

Question. Do you not consider, sir, that it is the duty of the pilot, or those navigating the boat, under all circumstances, to take such a course as would avoid a collision?

Ans. Yes, sir; it is, when it is possible.

Question. Is there anything in the condition of the river, or the condition of the water, that prevents a boat which is going up stream, after she has passed Nine Mile Point, from navigating either side of the river?

Ans. Nothing that I have ever seen or heard of.

Question. Captain, which would you consider the easiest handled or navigated, a down stream boat, with a full cargo of cotton, or an up stream boat, with an ordinary up stream cargo?

Ans. That would depend upon the kind of a river she was in.

Question. Well, right at Twelve Mile Point?

Ans. I don't know but what one could be handled as easy as the other, and with as much certainty; any steamboat, coming down the
931 middle of the river, in the shape of the current, could be steered just as easily as it would be going up stream, and with as much certainty.

Question. Then the fact that the boat is heavily loaded has nothing to do with the facility with which she is handled or navigated?

Ans. Yes, sir; it has in some parts of the river; in a crooked river, it has a great deal to do with it.

Question. Can she change her position with the same facility that a boat which is not so heavily loaded can?

Ans. No, sir; not so quick, and not with so much certainty.

Question. She cannot be moved with as much certainty, or as quick?

Ans. No, sir; so far as the steering is concerned, they steer just as easily.

Question. You cannot give her the same speed?

Ans. No, sir.

Question. Her wheels do not turn over so easily?

Ans. No, sir; but she has got steerage way when she is going through the water.

Question. Then a boat which is heavily laden is managed as easily as a boat that has got an up stream cargo?

Ans. Yes, sir; in some parts of the river; in coming down the coast in this part of the river, boats have not to make short turns, and can be managed with as much certainty.

Question. If you have a down stream boat, with a heavy load, and have to stop and change her position and back her, can you do that with the same facility that you can stop an up stream boat, with an up stream load, and back her and change her position?

Ans. No, sir; you cannot.

Redirect by Mr. CAMPBELL:

Question. Do you know the pilots of the Richmond, Frank Cayton and Duffey?

Ans. Yes, sir.

Question. What is their reputation?

Ans. They have the reputation of being as good pilots as we have on the Mississippi River.

Question. Speaking of a heavily laden down stream boat, I will ask you whether you would consider it a prudent course for a very
932 heavily laden down stream boat, knowing that a boat was coming up Twelve Mile Point, to attempt to go around that Twelve Mile Point instead of striking out into the current towards the other shore?

Ans. I should consider it very imprudent.

By Mr. EGAN:

Question. What is the reputation of the Richmond for handling?

Ans. Well, I have heard her spoken of as being a good steering boat; a good model; I have never steered her, and was never on her when she was under way.

Question. Do you know whether her reputation is bad for handling?

Ans. No, sir; I do not.

Question. Have you heard it spoken of as bad?

Ans. I have heard of her once running into the bank, but I don't recollect any of the particulars connected with it; my understanding at that time, was that it was not the fault of the steering of the boat, but

that there was a mistake in the bells; that they didn't back her, or backed one wheel and not both.

JOHN T. McCORD, sworn by Alfred Ingraham, esq., United States commissioner, on behalf of claimants.

By Mr. CAMPBELL:

Question. Where do you reside?

Ans. At St. Louis.

Question. Were you employed on the Richmond at the time of this accident with the Sabine?

Ans. Yes, sir.

Question. In what capacity?

Ans. Clerk.

Question. Were you up just before the accident?

Ans. Yes, sir; a while before the accident.

Question. Did you see the course of the Richmond from the time she left Nine Mile Point?

Ans. No, sir.

Question. Where were you?

Ans. I was in the hall.

Question. State whether or not you heard any whistle blown by the Richmond.

Ans. Yes, sir; I heard her whistle.

Question. What did you hear next?

Ans. I heard her blow one whistle, and in about a half a minute or a minute I heard the stopping bells ring; just afterwards the gong sounded to back; the motion of the boat ceased; I thought there
933 must be something wrong (I was always on the alert); and about a minute and a half more I heard the collision.

Question. Did you hear any whistles from the Sabine?

Ans. No, sir; I did not hear any; I was in my room.

Question. Were you out when the boats came together?

Ans. No, sir.

Question. You were not out when they came together?

Ans. No, sir.

Question. You do not know the direction they came together?

Ans. No, sir; but I know the position they laid in in less than a half a minute after the collision; that position was, that both their heads were directly together; both headed towards shore under Twelve Mile *Mile* Point on the left bank of the river; in less than half a minute I got on the larboard guard; they were lying nearly alongside of each other, their heads together, and the stern of the Sabine was about twenty-five or thirty feet from the side of the Richmond, and both h'aded directly towards the shore.

Question. Which side of the Richmond was the Sabine lying along?

Ans. The larboard side.

Question. Which side of the Sabine was lying alongside the Richmond?

Ans. The starboard side.

Question. Did you notice how far the Richmond was from the bank at that time?

Ans. I did.

Question. How far was it?

Ans. Not to exceed one hundred yards.

Question. Do you know whether she was backing or had sternway at the time you went out?

Ans. I don't know; I only know I heard the gong sound, and it was about a minute and a half before the collision; I did hear the Sabine sound one whistle (I will correct that), just after we sounded our last whistle that I spoke of.

Question. When did that second whistle sound?

Ans. After the backing bell sounded, say about a minute, I heard our boat blow one more whistle, and then I heard the Sabine whistle.

Question. Did the Sabine blow one whistle?

Ans. I don't know whether it was one or two; I heard her answer, and that was what made me think there was something wrong, and in less than a half a minute I heard the collision.

934 Question. Go on and state all you know about this, without being asked any questions.

Ans. Well, that is the extent of it; I went out on the guards and marked the position of the boats, and the distance they were from shore; we had from seventy-five to eighty bales of cotton on the larboard forecastle, and cotton was lying around between the two boats.

Question. How about the lights?

Ans. The lights of the Richmond were in their place.

Question. Were they burning?

Ans. Yes, sir.

Question. Brightly or dimly?

Ans. Brightly; I took care to look at that, knowing that the question often came up in case of a collision.

Question. Did you call anybody up?

Ans. Yes, sir; I called the second clerk, and told him that I wanted him to go up and pay particular attention to the signal lights, and see that they were burning, so that he could testify to it, if he was called upon; he went off to do so.

Question. What did the Richmond do after that?

Ans. Just after the collision she slipt away from her, until the other boat hallooed, and she went alongside of her.

Question. Which way did she slip?

Ans. Back astern.

Question. Which way did the Sabine go?

Ans. She seemed to go towards the shore, and the Richmond backing from her. The Sabine signalled us; we answered, and went back alongside, and took off the passengers; I stayed there a while, and then went to bed.

Question. Did you notice the Richmond, to see how she was injured?

Ans. Not until next morning.

Question. What did you find then?

Ans. I went down at Captain Green's call, and looked over her bow, and saw that the stem was swung off the timber heads or hooden ends, and shifted a little over to the starboard.

Question. Did you notice whether there were any marks on that stem like a blow?

Ans. I did not notice it; it appeared that something struck it, and knocked it over to the starboard, and the plank was punched out.

Question. How far from the stem?

Ans. About a foot or a foot and a half, as well as I remember; perhaps it was longer than that; I don't remember now particularly; there is another piece put in there since.

935 Question. Did you notice the knee of the Richmond on that side?

Ans. Yes, sir; the knee of the Richmond was broke over or mashed over.

Question. Mashed over, how?

Ans. Inboard, right over towards the forecastle; it was enough to break the upright that it leaned on.

Question. Was it mashed straight inboard?

Ans. As well as I remember, it was.

Question. Do you know anything about any other damage?

Ans. Yes, sir; the guards of the boat were all careened down, and the knuckles all sprung and the butts, so that she leaked a little.

Question. Did you have to make any efforts to keep her clear of water?

Ans. We started all the pumps on the boat.

Question. Did you keep up steam?

Ans. Yes, sir; we kept up steam for some length of time after we got here; one or two days.

Question. Did she stop leaking of her own accord, or how did you stop it?

Ans. Well, really, I am unable to tell you, as I was busy down town.

Question. Do you know whether she is leaking now?

Ans. I don't know; I have not been about the boat any for the last week.

Question. Do you know whether she was decked here?

Ans. She had a bow deck put in her here.

Question. Were any repairs made to her?

Ans. Yes, sir; her deck was put in her.

Question. Who repaired her?

Ans. Mr. McGuffey.

Question. Do you know what he charged for the work that he did on her?

Ans. Yes, sir; I have a memorandum of the amount here (producing paper); his bill was five hundred and seventeen dollars for the work he did; I have not got a copy of the bill; I made a mistake about having it.

(It was here agreed that the right should be reserved to all the parties in litigation to prove the amount of damage done, after the question of liability was decided by the court.)

Question. After this collision occurred, did you ever have any conversation with either of the pilots of the Sabine in relation to the collision?

Ans. Yes, sir.

936 (Mr. Egan objected to any testimony in regard to statements made to witnesses by the pilots of the Sabine after the collision.)

Question. At what time?

Ans. I presume it was a half an hour after the collision.

Question. Whereabouts was it?

Ans. Standing on board the Richmond, at the Richmond's office.

Question. What was that conversation, and who was the pilot?

Ans. The pilot was Mr. Ensminger.

Question. Was he one of the pilots of the Sabine?

Ans. Yes, sir.

Question. What was that conversation?

Ans. He was standing at the office, and he and I entered into a conversation concerning the affair; I didn't know at the time that he was one of the pilots; he made some remark concerning it; what it was I don't remember; I asked him, "How do you know?" said he, "I was in the pilot-house;" "Well," said I, "What in the mischief were you

doing there in the eddy under the point?" He said, "You know the descending boat has got the right of way;" I said "I suppose she has, in the middle of the river, if she calls for it;" he said, "I was not on watch, and I am glad I wasn't."

Question. Was that all?

Ans. That was the whole of the conversation.

Question. How long have you been running the river?

Ans. About eighteen years.

Question. In what capacity?

Ans. Clerk and captain.

Question. How long have you been master?

Ans. At different times for the last eight or nine years.

Question. In this trade?

Ans. A great portion of the time in this trade.

Questton. Between what points?

Ans. St. Louis and New Orleans.

Question. Do you know the character and reputation of the pilots of the Richmond?

Ans. I do.

Question. What is it?

Ans. It is as good as any ever was known to be; one of them learned the river, or started to learn the river, on a boat on which I was second clerk.

Question. Are they sober men?

Ans. Yes, sir; I have an acquaintance with him for eleven or twelve years, and I have not known him to take half a dozen drinks in my life.

937 Question. Who was that?

Ans. Mr. Duffey.

Question. He was at the wheel at the time?

Ans. Yes, sir; I have never known Mr. Cayton to take half a dozen drinks in my acquaintance with him, and I have known him ever since I have been on the Richmond.

Question. Had the Richmond any steersmen?

Ans. No, sir; only her pilots; she has never had any steersmen on her since I have been on her.

Question. Do you know what kind of engineers were on that boat?

Ans. Yes, sir; they were sober, industrious men, and capable.

Question. How about the strikers?

Ans. I have never seen a striker on that boat take a drink since I have been on her; I have never seen one of them at the bar.

Question. What kind of a master is Captain Green?

Ans. Captain Green is a very competent master, very competent.

Question. Is he attentive?

Ans. Very attentive.

Question. Does Captain Green drink?

Ans. He has not taken a drink since I have been on that boat.

Question. How long have you been on her?

Ans. About three or four months.

Cross-examined by Mr. MARR:

Question. Where were you when you heard the first whistle of the Richmond?

Ans. In my room, in bed.

Question. How long after that first whistle was it that you heard the bells ring to stop the engines?

Ans. From a half a minute to a minute.

Question. Did you hear them distinctly?

Ans. Yes, sir.

Question. Do you know that the bells ran to stop both the engines?

Ans. I suppose they were rung for that purpose; they are usually rung for that purpose in going up the river.

Question. How long after you heard both bells ring did you hear the gong ring to back the boat?

Ans. It was too short a time to compute the minutes.

Question. Had you been asleep that night?

Ans. No, sir.

Question. How long had you been in bed?

Ans. Ten or fifteen minutes.

938 Question. Was that the first whistle that had been whistled by the Richmond?

Ans. That was the first one I noticed.

Question. And about a half a minute after that you heard both the engine bells ring to stop, and, in so short a time that it is not computable, you heard both the gongs ring to back?

Ans. Yes, sir, in a quarter of a minute, about.

Question. You are sure you are not mistaken in the particulars?

Ans. No, sir. I am not mistaken in the particulars.

Question. Did you continue in your room until the boats came together?

Ans. I did.

Question. When you came out, on what side did you come out?

Ans. On the left-hand side.

Question. On the larboard side?

Ans. Yes, sir.

Question. From where you were, after you came out on the larboard side, could you see the shore?

Ans. Which shore?

Question. The left bank of the river.

Ans. Do you mean the left bank coming down?

Question. I mean the left bank, coming down stream; about how far away from the shore were you?

Ans. About a hundred yards.

Question. At what period was it that the second whistle of the Richmond sounded?

Ans. It was a short time after the stopping bells were rung.

Question. Do you know whether the engines were actually backing at the time that second bell was rung?

Ans. No, sir; I could not tell in my room.

Question. You did not hear it?

Ans. No, sir; I cannot hear that.

Question. Was there length of time enough for her to commence backing?

Ans. Yes, sir; I think there was.

Question. You are sure that the second whistle was sounded after you heard the gongs ring to back both the engines?

Ans. Yes, sir.

Question. After that second whistle how long was it before the boats came together?

Ans. A short time; perhaps a half or three quarters of a minute.

Question. I would like to know whether you know whether the Richmond had sternway at the time this collision occurred?

Ans. I could not tell anything of that kind, being in my room.

939 Question. How long did the Richmond continue backing before you heard the bell ringing to stop backing and go ahead?

Ans. I didn't hear that at all.

Question. How did she get clear of the Sabine?

Ans. She went right back from her.

Question. Well, you were right out on the guards?

Ans. Yes, sir.

Question. How did she get away?

Ans. She went away from her.

Question. You did not hear the bells ringing to stop the backing?

Ans. No, sir; I didn't hear any bells after that.

Question. You did not hear any bells to go ahead again?

Ans. She had to go ahead to get to the Sabine; I do not understand what you mean.

Question. The first thing you heard was the whistle, then you heard the stopping bells immediately, and then the backing bells; after that you heard another whistle, and after that came the shock of the collision; then you walked out on the guards, and the boats were in a certain position; had the Richmond sternway at that time, is what I have asked you, and you said you did not know; but you do know that she got off from the Sabine?

Ans. I do know that after I came out, she moved right back.

Question. You did not hear the gong ring to stop backing, or the bells rung to go ahead?

Ans. No, sir.

Question. You knew she had to go ahead to get up to the Sabine?

Ans. She was up to the Sabine when I got out.

Question. When she backed away from the Sabine how did she get back?

Ans. The Sabine hallooed to us to come back, and we came right alongside of her.

Question. How far did you go away from her?

Ans. I don't know how far.

Question. You know that your boat slided back from her?

Ans. Yes, sir.

Question. And afterwards you went up and got up to her?

Ans. Yes, sir.

Question. You do not know how far off she had got?

Ans. No, sir; because I went back into my room and put on my clothes.

Question. You stayed out there until the boats separated?

A. I saw that they were going to separate; they were just capped as I went out.

940 Question. Just as they hit?

Ans. I suppose so.

Question. Do you know what way the head of the Richmond was tending?

Ans. Yes, sir.

Question. Do you know how her stern was?

Ans. No, sir; but I looked at the head and supposed that the stern was backing in the opposite direction; I think the stern was holding directly across the river.

Question. The Richmond was laying directly across the river then?

Ans. Yes, sir.

Question. How far was that below Twelve Mile Point?

Ans. I don't know; it was in the night.

Question. Where do the lights of the Richmond hang?
Ans. On the chimney.
Question. On the top of the chimney?
Ans. About two feet and a half or three feet below it.
Question. What sort of a light have you on the starboard chimney?
Ans. There is a green one on one side and a red one on the other.
Question. These lights hung just exactly in front of the chimney?
Ans. Yes, sir.
Question. Can you see those lights from either guard of the boat?
Ans. You can see both of them by standing a little forward; you cannot stand back on the guards, opposite the chimney, and see both of them; I went out on the larboard guard and looked at the light on that side, and then went on the starboard side and looked at that one there.
Question. Have you not pretty wide roofs sticking out there?
Ans. Not over the cabin; the guard over the cabin does not extend more than six feet; outside of that is the flush guard, which is eight or ten feet wide.
Question. You went out on that flush guard?
Ans. Yes, sir.
Question. You do not know anything about the third light?
Ans. No, sir.

By Mr. EAGAN:

Question. When you came in off the guard, who did you meet?
Ans. Do you mean the first time?
Question. Yes, sir.
Ans. I met a half a dozen.
Question. Did you go out more than once?
Ans. I went out and stayed out after that, after I got my clothes on.
941 Question. When did you get your clothes on, how long after the collision?
Ans. I didn't look at my watch at the time.
Question. Did you remain without your clothes until after the boats backed away from each other?
Ans. The Richmond was just backing away when I went in to dress.
Question. Did you meet any one?
Ans. I met half a dozen.
Question. Did you give directions to any one?
Ans. No, sir; I was not the directing power.
Question. You were not the directing power?
Ans. No, sir.
Question. You examined the lights alone?
Ans. Yes, sir.
Question. You directed nobody else?
Ans. I directed the second clerk, Mr. Langlois, to look at them.
Question. You say you saw the left-hand shore; was it a bluff bank?
Ans. No, sir.
Question. What kind of a bank was it?
Ans. A flat bank.
Question. Were there any willows there?
Ans. There were willows just above that, that I saw at daylight.
Question Were there any willows right at the place?
Ans. We were not at the same place where the collision was at daylight.

Question. How could you tell what distance you were from the shore; how did you know what shore it was?

Ans. I knew what shore it was.

Question. What was the description of the shore?

Ans. It was a flat shore.

Question. Was there anything on it?

Ans. I don't know whether there was anything or not; I couldn't tell.

Question. Was the night fine?

Ans. The stars were out.

Question. Was it raining?

Ans. It had been raining a short time previously.

Question. Was it blowing hard on that shore?

Ans. Yes, sir.

Question. Where did you sleep?

Ans. In the first room, on the larboard side of the boat.

Question. Could you hear the bells when the wind was blowing hard, and through the noise of the machinery?

Ans. Yes, sir.

Question. Could you hear the bells on both sides?

Ans. Yes, sir.

942 Question. Plain?

Ans. Plain enough to hear them.

Question. Were you listening attentively?

Ans. Yes, sir.

Question. Did you hear the Sabine whistle?

Ans. Only the last one, that I spoke of, just before the collision.

Question. How many blasts did she give?

Ans. I don't know, sir; I just heard it, and raised up in bed to hear what would come next.

Question. Is it usual to raise up when you hear a whistle?

Ans. I don't know how it is with other people; I am not in the habit of sleeping with any one.

Question. Are you in the habit of raising up when there is a whistle?

Ans. I did on this occasion; I don't know wnether I do or not, always.

Question. Did you hear more than one whistle on the Richmond?

Ans. I heard one whistle at two different times.

Question. How long after the second one was it that the bells were rung?

Ans. I stated that the bells were rung before the second whistle, and not after the second whistle; it was after the first whistle and before the second whistle.

By Mr. COHEN:

Question. As to the fact of the cotton, or the displacement of the cotton by the collision, was that cotton displaced from the Sabine by the effect of the collision?

Ans. Oh, yes, sir; it was pitched over on our forecastle.

Question. Besides that, was there any that fell in the water?

Ans. Yes, sir, there was a good deal floating around in the water.

Question. State whether it was a large or a small quantity.

Ans. I could not say; it was done in a great hurry and under excitement.

Question. Were there two or three, or a good many?

Ans. I suppose there were fifteen or twenty, maybe; I couldn't tell positively.

Question. How many fell on your boat?

Ans. Well, I judge there were from sixty to seventy-five; when I say fifteen or twenty, I mean fifteen or twenty that I saw round about; I don't know what fell off on the other side; I understood the cotton fell off the other side of her when she careened over.

943 By Mr. CAMPBELL:

Question. Did the Richmond take off any of the cotton from the Sabine?

Ans. Yes, sir.

Question. And laid by her?

Ans. Yes, sir.

Question. How long?

Ans. From that time until three or four o'clock next afternoon.

Question. How much cotton did she take off the Sabine?

Ans. Three hundred and twenty-nine bales.

Question. Anything else?

Ans. She took off the cabin furniture, passengers and baggage.

Question. Will you state whether or not the removal of that cotton from the Sabine had any effect upon the preservation of the hull and upper works of the Sabine?

Ans. Yes, sir; I think if it had not been taken off she would have capsized.

944 Testimony taken before Alfred Ingraham, esq., United States commissioner, New Orleans, February 23d, 1872.

United States district court. In admiralty.

SARAH C. SHIRLEY AND OTHERS *versus* STEAMBOAT RICHMOND ET ALIAS. } No. —.

Testimony of Joseph T. Burdeau
Testimony of R. H. Smith
Testimony of T. P. Leathers
Testimony of J. N. Bofinger
Testimony of John T. McCord
Testimony of T. P. Leathers (recalled)
Testimony of Patrick Kane

Specially reported by C. W. Colton, phonographer, No. 18 Carondelet street.

SARAH C. SHIRLEY ET ALS. AND MERCHANTS' Insurance Company *vs.* STEAMBOAT RICHMOND.

Testimony taken by consent of counsel for the parties.

JOSEPH T. BURDEAU, being duly sworn, on his oath says:

Reside in New Orleans, La.; have been on the Mississippi River as clerk, master, and pilot, for at least thirty years; the proper course for an ascending steamboat, leaving Carrollton, is to cross from below Car-

rollton to Nine Mile Point, and she follows up the right shore, geographically, about a m e above the point, and she makes a long crossing to below Twelve Mile Point, on the left bank of the river; she
945 can't straighten up till she turns Twelve Mile Point, on account of it being a flat shore below the point; she ought to hold out from the shore at least three hundred yards, or one-third of the river, as it is a flat shore until she rounds the point.

The proper course for a descending boat would be to start across one-quarter or one-half of a mile above the point, and hold in to the right hand, and keep on to that shore as close as she can down to Nine Mile Point or to Kennedy's house; a descending boat would not be in her proper place were she to attempt to hug Twelve Mile Point and to run down the river along the left-hand bank under Twelve Mile Point.

A heavy laden descending boat, coming around Twelve Mile Point, and running down along the left shore, if she got her head in the eddy under Twelve Mile Point, would swing her head up stream.

I went and looked, day before yesterday, at the wreck of the Sabine, a mile under the point, fully a mile; I noticed the break in her; her right bow is where the break is; the left bow is perfect, uninjured; the break on the right bow commences about ten feet from her hooden end, and goes aft; all I can do is to draw my inference from the break; I was on neither boat at the time of the disaster.

By Mr. CAMPBELL:

Question. Captain Burdeau, from your observations of that break in the hull of the Sabine, state how you judge it to have been caused.

Ans. Well, from the nature of the break, I would infer that the Sabine was trying to run right straight across the bow of the Richmond; I would judge that from her break, and the way in which the Richmond's stem was twisted to the right or wrenched off.

Question. How does it look as if the two boats came together?

Ans. Well, it looked to me from the break, that the Richmond must have been going up that shore, and that the Sabine was trying to take that shore from her, and just saddle-bagged her bow, because the Richmond's stem is twisted to the right.

Question. In what manner does it appear that the bow of the Richmond struck the Sabine?

946 Ans. Well, it looks to me as if the break seems to be aft, and not forward at all; it looked to me as if the Richmond was going up stream, and the Sabine swung against the side of the bow of the Richmond, because the break seems to be aft, and not forward.

Question. State whether or not it has the appearance of having been cut in by a direct blow, the Richmond going head on, or as having been mashed in by a lateral blow from the swinging of the Sabine against the left bow of the Richmond.

Ans. The break looks to me like it was done by a swinging lick, because the decks are not broken at all for ten or twelve feet from the stem; decks are cut off, as if you took a saw and sawed it off, and in the aft part is all mashed in and squeezed in sideways; on both bows, for ten feet, it is just as perfect as the day she was built.

Question. State whether or not the Richmond has a very sharp, strong stem.

Ans. Yes, sir; she has been about as sharp a boat as has been built, and has a very strong stem; at least twelve inches deep.

Question. Then, as I understand you, from the cut into the hull of the Sabine forward, towards the bow of the Sabine, the timbers are not disturbed?

Ans. Not at all; not a particle for twelve feet; I didn't measure it, but I estimated it at twelve feet; her hooden ends and her plank are as perfect as the day she was built.

Question. Then, after the cut, you say the timbers have the appearance of having been mashed in?

Ans. Yes, sir; from there to the first stauncheon of the cabin.

Question. I will ask you this question: Would it be possible for the Richmond going into the Sabine head on, to have made that kind of an impression in her hull?

Ans. If she had gone in head on, she would have mashed all the nosing from the present break to the stem of the Sabine.

Question. If the Richmond had gone into the Sabine head on, what effect would it have had on the stem of the Richmond?

Ans. Well, it would not hurt the stem at all; it would have just drove it in and made it tighter than it was before; it would have drove the stem in if it had not been a side lick.

Question. Had a boat, with the power and strength of the Richmond, gone into the Sabine head on, state whether or not she
947 would have gone, in your opinion, clear through her.

Ans. At that place that she struck her, where the break is, if no cotton had stopped her, she would not have stopped until she had got on the other side of her.

Question. Would it have been possible to have stowed much cotton on the Sabine at the place where this blow was struck?

Ans. No; I don't think that on a boat of that kind they can carry cotton any further forward than ten feet from the stem; they must leave at least that much open room for the lines and riggings to work upon; all boats leave more than that; I don't know that there was any cotton.

Question. Did you examine the bow of the Richmond?

Ans. Yes, sir.

Question. How long after the occurrence?

Ans. I think it was the second or third day; I was passing by with some company, and Captain Green asked me to come and look at it.

Question. How was her bow damaged?

Ans. Well, on her left bow her forward stack of knees was knocked in; her stem was wrenched to the right, so that I could put my fist beween the hooden end and the stem; it was wrenched off to the right.

Question. How do you account for that stem being wrenched off to the right?

Ans. Well, that stem, in my opinion, could not have been wrenched off unless it was by a side lick.

Question. How long have you been running the river as master and pilot?

Ans. Well, I did very little piloting on the Mississippi; it was in the Missouri that I did the most; I have been on the river about twenty-five years.

By Mr. BILLINGS:

Question. From your examination of the two boats, in your opinion which way was the Richmond going, and which way was the Sabine going at the time of the collision?

Ans. As I told you, I was not on either boat; all the way I draw my inferences is from the break of the boats; I would infer that the Richmond was going up the left hand shore under Nine Mile Point, or about there, and that the Sabine, instead of being in the point, undertook to

take the shore from the Richmond, and must have been headed up stream towards Twelve Mile Point.

948 Question. Was the Richmond, in your opinion, moving forwards or backwards at the time of the disaster?

Ans. Well, I don't think she was moving forward, because, if she had, the break on the little boat would have reached farther forward; it stopped short from the break.

Cross-examined by Mr. MARR:

Question. You infer, from the shape of the break on the Sabine, and from what you saw of the stem of the Richmond, that the Sabine had swung around and had her head up stream towards Twelve Mile Point?

Ans. That is my inference.

Question. That is your way of accounting for it?

Ans. I will explain to you; if the Sabine had been under the right hand point, which was her proper place, and the Richmond had run into her bow (which a big boat is likely to do, if you run her too close), instead of running into the right hand bow of the Sabine, she would have run into the left hand bow of the Sabine.

Question. Now, suppose you had heard somebody who was on the Richmond, in whose statement you had confidence, say that the Richmond, just before the collision, was pointed with her head square into the shore, about two hundred yards below Twelve Mile Point, what would you then say must have been the position of the Sabine, in order to have been injured as she is injured?

Ans. I do not understand your question.

Question. One of the witnesses stated that the Richmond, just before the collision, was pointed square into the shore, into what you would call the left hand shore, under Twelve Mile Point, and that she was so headed, that if she had not struck the Sabine, she would have struck the bank herself; what would you then say as to the position of the Sabine at the time the collision occurred?

(Mr. Campbell, counsel for claimant, here stated that his recollection as to what the witness referred to had said, was different from the recollection of Mr. Marr.)

Ans. Well, the Sabine then must have been heading up stream for Twelve Mile Point, under Twelve Mile Point.

949 Question. Which is the most easily navigated, a down stream boat, loaded with cotton, as the Sabine was, or a boat of the class of the Richmond, with an ordinary up stream cargo?

Ans. A light boat ought to be easier handled than any heavily laden boat.

Question. Is it an open river, or a straight river, from Kennedy's house up to Twelve Mile Point?

Ans. The right hand point makes but a very small point; it is pretty near a straight river from there to Carrollton; there is a little crook in it.

Question. Could a pilot of a boat going up the river, when he comes opposite Kennedy's, see a boat coming around Twelve Mile Point?

Ans. Certainly; because it is the duty of the officer to keep up that shore up to Kennedy's house; and sometimes, in low water, when there is no current, we hold on to that shore further up, and make a long crossing.

Question. How far below Twelve Mile Point does the bar under the point extend?

Ans. There is a flat shore under Twelve Mile Point until you get to

Fort Chalmette, above Carrollton; from Twelve Mile Point until you get to Fort Chalmette, I don't believe in this stage of water that you will find over four fathoms of water in shore; I went in there the day before yesterday with my tug, drawing six feet, within half a length of the boat of the shore.

Question. Now, Captain Burdeau, when a boat chooses, in going up the river, to follow up the left hand shore until she gets opposite Kennedy's house, and then commences making her crossing from that point, how near does she go at any time to the right hand shore, under Twelve Mile Point?

Ans. She ought not to be within three hundred yards until she make the point.

Question. She ought to hold far enough out when she leaves Kennedy's to keep about three hundred yards from the shore until she laps the point?

Ans. Yes, sir; you couldn't hold a big boat any closer than that; while I was there, two boats passed going up, and they were both very light draft boats, (the Tahlequah and the R. P. Walt,) and they both held out from that shore at least one-third of the width of the river.

Question. They are both not more than half the size of the Richmond?

Ans. No, sir; they don't draw more than five or six feet of water.

Question. In going around Twelve Mile Point, how near to the
950 shore does the boat pass?

Ans. Well, they can go as close as they want to; they can go a mile above that point before they make a crossing; they can run just where they please; Soniat Landing is just above the point.

Question. Did you observe whether there was was a continual eddy under Twelve Mile Point?

Ans. Yes, sir; there is an eddy there a quarter of a mile long, I reckon.

Question. How far out does that eddy extend?

Ans. It extends very near the middle of the river there—two-thirds, at any rate; I judge of that from looking at it.

Question. Captain, if you were coming down the river, rounding Twelve Mile Point, and you saw a boat in the point below, above Nine Mile Point, keeping up that shore, do you know any rule of navigation that would prevent you, with your down stream boat, from keeping as near to the shore under Twelve Mile Point as you might choose to run?

Ans. Only this: A man doing that makes himself susceptible to being run over by another boat running up stream, if there happens to be a boat coming up; for that reason, a man should keep in his proper place.

Question. I am speaking of a boat coming up, too; you have a full view of the river below Nine Mile Point from Twelve Mile Point?

Ans. After you turn Twelve Mile Point, you can see below Carrollton, and you can see a boat in the river.

Question. Then, the hypothesis now is, that you are on a descending boat, and you are approaching Twelve Mile Point, intending to round it; you see a boat that has rounded Nine Mile Point, or you see a boat in any other part of the river, as far down as Carrollton; now, is there any rule of navigation which would compel you to go on the other side of the river, rounding Twelve Mile Point, with a descending boat?

A. Yes, sir; according to the rules and regulations, she ought to take the right hand shore; the down stream boat ought to take the right shore.

Question. Is there not more or less risk for a down stream boat, being

near in towards Twelve Mile Point, if she attempts to run over to the other side and take the right hand shore; is there not more or less danger of meeting the boat that is making a long crossing?

Ans. No, sir; the boat making the long crossing, the further she goes up the river, after leaving Kennedy's, the more she leaves that shore.

951 Question. Is there not room enough, when the ascending boat is about Kennedy's, and the descending boat about Twelve Mile Point, and they see the lights of each other, is there not room enough and water enough for the ascending boat to go anywhere she chooses, to get out of the way of the descending boat?

Ans. Well, a boat like the Richmond you cannot hold so well in less than three fathoms of water; but that little boat, drawing the water she was drawing, which was not over five feet, there would have been water enough to go inside the Richmond; but she would have been out of her place entirely.

Question. Was there not plenty of water on the right bank of the river for the Richmond to have kept up that shore, if she chose?

Ans. Oh, the right bank has a deep bottom; you can run anywhere on the right bank, after you turn Nine Mile Point, to the head of the point, and you could take a lead of the width of the boat and you couldn't touch bottom; not with a ten fathom line.

Question. When you are going down the river, and you have gotten to Twelve Mile Point, and you see a boat which has just rounded Nine Mile Point, can you tell, with absolute certainty, how she is going to make her crossing?

Ans. No; but we have to suppose that she will make it according to the rules and regulations.

Question. Can you tell how she is going to do it?

Ans. No, sir; but we can tell how she ought to do it; we have to leave that shore and give her the right of way; we would be wrong to keep that shore; it is our duty to leave the point and give it to the ascending boat.

Question. Do you not know that boats occasionally land on that shore?

Ans. There is no landing, or any place to land, until you get to Fort Chalmette, after leaving Nine Mile Point.

Question. Are there not plantations all along there on the right bank?

Ans. Yes, sir, there is on the right bank; I am speaking now of the left bank coming down; there is no landing from Nine Mile Point to Camp Parapet.

Question. I ask you if you can tell how she would make a crossing?

Ans. She can keep up that point; but still she would be out of her place if she kept up the point and crossed above Twelve Mile Point.

952 Question. If there is nothing in the river in the way, why may she not go to one place as another, if there is water enough?

Ans. Because if she comes over at Twelve Mile Point she gets the slack water, and the distance is shorter; she cuts off the bite of the point.

Question. Then it is a matter of convenience, and not a matter of necessity?

Ans. It is a matter of convenience, and one of calculation, too.

Question. Did you see any indications to enable you to decide where those two boats were at the time the collision occurred?

Ans. No, sir; I do not know anything about it, except from hearsay.

Question. When you examined this wreck, how much of the bow of the Sabine was out of water?

Ans. I want you to understand that I did not go there specially for that; I own a tug here, and Captain Green asked me to lend him my tug to go up, and asked me to go up; if I had thought I was going to be a witness, I would not have gone at all; when I went aboard the Sabine, they had worked her into the shore; her bow was right against the bank, within stage plank reach, and her deck was dry from her stem to her boilers; when I was aboard of her, all the break was out of water three feet or more.

Question. Did you see the whole of the break, down to the bottom?

Ans. I don't believe there was over a foot of water in the bottom of the boat when I was there; they pulled her right ought on that flat shore, as far out as she could go; she was held up by a chain on each side.

By Mr. CAMPBELL:

Question. You remarked, in your cross-examination, that a very heavily laden descending boat was not so manageable and so obedient to the helm?

Ans. Any heavily laden boat is, up or down.

Question. Now, sir, a pilot knowing that his boat was not obedient to the helm, would it be his duty to be particular in following the regulations of the river, or not?

Ans. He ought to be so, to keep from being run over by some other boat.

Question. Would it be his duty to be more particular than under any other circumstances?

953 Ans. It would be his duty, if the boat was unmanageable; it is his duty, if he sees a boat coming up, and he has no control of his boat, to stop her.

R. H. SMITH, sworn by Alfred Ingraham, esq., United States commissioner, on behalf of claimants.

By Mr. CAMPBELL:

Question. What is your business?

Ans. A pilot on the Mississippi River.

Question. What boat are you now running on?

Ans. On the Natchez.

Question. How long have you been a pilot on the Mississippi?

Ans. Since 1849.

Question. In what trade?

Ans. In the St. Louis and New Orleans trade, and the Vicksburg packet trade.

Question. Are you familiar with the proper course for ascending boats, after leaving Carrollton, until they get to Twelve Mile Point, or above Twelve Mile Point?

Ans. Well, they turn the Nine Mile Point like any other ascending boat.

Question. How far do you go above Nine Mile Point?

Ans. I go nearly up to Kennedy's before I make the crossing. I would hold just about to the point, on a straight course, with the Richmond or Natchez, or any of the big boats; when you get to the point, you would be under the point, maybe half a mile.

Question. How far would you be from the shore in running up?

Ans. About a hundred and fifty, or a hundred yards; you would not be exactly at the point; you would be a hundred and fifty yards from

the shore; a half of a mile below the point. I would pursue that course until I got to the turning place.

Question. Is that the proper and usual course for an ascending steamboat?

Ans. That is the course we all take; that is the course I take.

Question. Is that the usual course?

Ans. Yes, sir; at this stage of the water—when the river is at this stage; of course, when the river is lower, we go away off from that.

Question. What would be the proper course, at this stage of the water, for a heavily laden descending boat, coming down the
954 river, approaching Twelve Mile Point?

Ans. Do you mean before she gets to the point?

Question. Yes, sir; when she wants to clear the point.

Ans. Well, when she gets to Twelve Mile Point, she would be out in the river about three hundred yards; her course then would be to drop into the point, about Mrs. Wagner's—say, two hundred yards or so abreast of Mrs. Wagner's.

Question. That is under Nine Mile Point?

Ans. Yes, sir; a little under it.

Question. It would be her duty to hug the point, instead of making the point?

Ans. Certainly; a boat never keeps any other path.

Question. State whether or not a boat would be in the proper position to hug the point, coming down the river, and attempt to leave the right hand bank?

Ans. It would be no course for the descending boat to keep to Twelve Mile Point; it would be out of her way.

Question. Are you acquainted with the pilots of the Richmond, Mr. Charles Duffey and Mr. Cayton?

Ans. Yes, sir.

Question. Do you know their reputation as pilots?

Ans. Their reputation is good as pilots.

Question. Did you ever steer on the Richmond?

Ans. I was on her the summer before last. I went to St. Louis and back again.

Question. State how she handles and steers?

Ans. She handled, when I was on her, as good as any steamboat I know, of that size.

Cross-examined by Mr. MARR:

Question. How far below Twelve Mile Point does this bar extend; I mean, the bar that forms under the point?

Ans. It extends nearly down below Kennedy's—away down just abreast of the point; it is all flat, until you make the turn around Twelve Mile Point. I don't know exactly how much water there is there, because I never go near the left-hand shore.

Question. I have not understood your examination, then; where does the bar begin?

Ans. It commences right immediately—we'll say a quarter of a mile under the point, before the flat soil commences—half a mile or a
955 quarter of a mile; I don't know exactly where the shoal water commences, because I never sounded it; I have run away from there several times.

Question. Is there an invariable rule about making that crossing, after rounding Twelve Mile Point?

Ans. Well, there is an invariable rule amongst pilots, and all of them, never to go near that shore in this stage of water.

Question. Never to go near the left hand shore coming down?

Ans. Not until you get up to the point.

Question. When you leave Kennedy's, you hold your stem up to Twelve Mile Point?

Ans. Yes, sir; and leave it a little open, if anything; when you get up to the point you will be close to the point.

Question. Which is the place to make your rounding?

Ans. Yes, sir; a boat will flank under the point; it will naturally do that all the time.

Question. Whereabouts does the eddy begin under Twelve Mile Point?

Ans. Do you know where Soniat's house is?

Question. I must get you to fix the distance, because all the witnesses have spoken that way.

Ans. There is a false point right below Soniat's house, and the eddy commences right there; that is the lower part of the rounding where the eddy commences; it commences a little above the straight shore of the point.

Question. How far down does that eddy extend?

Ans. I suppose it extends down to the middle of the willows.

Question. How far down?

Ans. I don't know exactly how far down it extends.

Question. You never noticed much about the distance?

Ans. No, sir; I know the landings; how to go in.

Question. Do you know how wide that eddy is in this stage of water?

Ans. There is not much water there now.

Question. At this stage of water there is not much eddy there, in your opinion?

Ans. No, sir; not a great deal; there may be an eddy there more than the length of the Richmond.

Question. An eddy about the length of the Richmond?

Ans. Yes, sir.

Question. And not a very strong one at that?

Ans. No, sir; not a very strong one, not now; in fact, there is very little current in the river.

956 Question. In going up the river, after leaving Carrollton, and navigating in the usual course for an ascending boat, how far up would you be able to see a down-stream boat?

Ans. It depends upon the night and weather. I don't know what kind of a night it was.

Question. An ordinary night?

Ans. You could see a boat, on an ordinary night, as soon as she gets in sight.

Question. Could you not see her at Twelve Mile Point, above Kennedy's?

Ans. No, sir; you couldn't see her.

Question. When you are a mile off from a boat that you are meeting, you going up and the boat coming down, could you not put yourself in a proper position to avoid her?

Ans. Of course I can.

Question. Have you any knowledge of the point at which this collision occurred?

Ans. I know the shape of it, from running up and down there.

Question. Have you any knowledge of the exact place?

Ans. No, sir; I don't know where they came together.

Question. From your experience, which handles the more easily—a boat laden with cotton, or a boat laden with an ordinary up-stream cargo?

Ans. It does not make a particle of difference as to the handling of the boat, if she is loaded right.

Question. Whether it is a small load or a heavy one?

Ans. If she is heavily loaded, of course it takes more time to handle her, but just the same difficulty.

Question. You move and change her position with more difficulty, or at least more slowly, than a boat that has a small cargo?

Ans. Of course.

Question. Do not the boats going up stream carry more steam than the down-stream boats?

Ans. I don't know about their taking more steam; they carry good steam most of the time.

Question. Do not the engines make more revolutions a minute going up-stream?

Ans. Yes, sir; because they are lighter; they get away from the water faster.

Redirect by Mr. CAMPBELL:

Question. How far under the point do you ordinarily fall, in going over to Twelve Mile Point?

Ans. We strike up about the foot of the willows.

957 Question. How far is that below the angle of the point?

Ans. It is a straight shore at the foot of the willows. It is the some distance.

Question. How far is it, do you suppose?

Ans. About a mile, as near as I could judge from the distance.

Question. You stated in your cross-examination that if you saw a boat a mile off you could take any part of the river you wanted to?

Ans. Yes, sir; I would not alter my course, though. I would go to my side, and if she blowed her whistle I would have to go to the other. If she blowed her whistle I would have to reverse it, and get out of the way the best I could. If I was to see a boat a mile off I would try to go by her, but if she reversed my whistling, of course I would have to back.

Question. How would it be if she reversed your whistles three hundred yards from her?

Ans. I couldn't do anything with her. You couldn't do anything then.

Question. What would you say would be the duty of a very heavily laden descending boat in coming down the river at night—would or would it not be incumbent upon those navigating her to take particular care?

Ans. It is the duty of pilots on boats coming down the river not to go close to the point, because boats going up stream will naturally run the point.

Question. But with a boat that is so heavily laden as not to steer well, would it not be the duty of the pilots to steer with greater care than before?

Ans. Yes, sir.

Question. Would they not have to take more than extraordinary care, in consideration of their boat not handling well?

Ans. Of course, in consequence of their boat not steering well.

By Mr. MARR:

uestion. How far is it from Nine Mile Point to Kennedy's house?

Ans. It is not a mile. From the extreme point of Nine Mile Point it is about a mile.

Question. From Kennedy's house the ordinary course of the boat would be a diagonal line. How far do you think it would be?

Ans. Between three and four miles. It is a long reach.

Question. As you came down the other day, did you see where the Sabine lay?

958 Ans. I came down when she had been raised, and I was not on watch that night and did not think to look for her.

Question. What is the average width of the river, after you leave Nine Mile Point, to Kennedy's house?

Ans. It is pretty wide.

Question. Can you say what the width of it is?

Ans. Yes, sir; above Mr. Wagener's, at the narrowest part, it is three-quarters of a mile.

Question. It gradually widens out until it gets to be a mile at Kennedy's?

Ans. At Kennedy's is the widest place. There is plenty of water between Twelve Mile Point and the shore opposite.

By Mr. CAMPBELL:

Question. How far under Twelve Mile Point does the bank continue bluff?

Ans. It doesn't continue, because it is not bluff at all up above Soniat's house.

Question. Where is Soniat's house?

Ans. At the head of the willows.

Question. It is bluff down to the head of the willows?

Ans. Yes, sir.

T. P. LEATHERS, sworn by Alfred Ingraham, esq., United States commissioner, on behalf of claimants.

By Mr. BILLINGS:

Question. Just state how long you have been on the river.

Ans. About thirty-six years.

Question. And how long have you been master?

Ans. About thirty years or upwards.

Question. Will you state what, in your opinion, is the proper course of an ascending boat from Carrollton to Twelve Mile Point?

Ans. After rounding Twelve Mile Point, we generally drop over to the right-hand shore.

Question. About to Kennedy's?

Ans. Yes, sir; we go just up about to Kennedy's and drop off to the other shore. I don't know that there is any positive point for the boat to go over, but it is the shortest road to get there.

959 Question. Then you go from there to the Twelve Mile Point?

Ans. Yes, sir.

Question. Then, below Twelve Mile Point, where would the ascending vessel properly be—on which side of the river?

Ans. She would be on the right-hand bank ascending, say a hundred yards or a hundred and fifty yards from shore.

Question. When you say the right-hand bank, what do you mean?

Ans. I mean the New Orleans side—the right hand ascending.

Question. Now, sir, will you not state what would be the proper course of a steamer that was descending from the point above Twelve Mile Point down, say, to Nine Mile Point?

Ans. Well, the descending boat has her place on the other side—on the right of her, coming down.

Question. On the left-hand side?

Ans. On the left-hand side of the ascending boat.

Question. How far would she be from the left-hand side of the river, going up?

Ans. Well, she might hold herself for a half a mile there.

Question. She would not be any nearer the Twelve Mile Point than the middle of the river, probably?

Ans. No, sir; after she gets under the point she would have most of the river on the New Orleans side of her.

Question. Suppose that a descending vessel was found just below the Twelve Mile Point, on the Orleans side of the river, say within a hundred and fifty or two hundred yards of the shore, would you say that she was in her proper course or not; I mean the descending boat?

Ans. Well, no; not according to the correct rule of running the river.

Question. She should be where at that point?

Ans. She should be farther out in the middle of the stream.

Question. In the middle of the stream, or beyond it?

Ans. Yes, sir.

Cross-examined by Mr. MARR:

Question. What is the character of the water under Twelve Mile Point; I mean, as to the depth of it?

Ans. Well, it is a flat shore, Mr. Marr, all the way down until you get within the neighborhood of Carrollton; after you get under
960 Twelve Mile Point the shore is more or less flat, and we do not go within five hundred feet, anyhow.

Question. Nowhere after you make the crossing?

Ans. No, sir; we don't go any closer to the shore on that account until we get close to the point; then we brush the point pretty close.

Question. In going up and rounding Nine Mile Point, how far up do you generally run the left-hand bank before you steer across?

Ans. We don't run up very far, that is, in a general way. We try to shorten the river; we run from point to point, if there is nothing in the way.

Question. Do you know where Kennedy's house is?

Ans. Yes, sir.

Question. How far is that above Nine Mile Point?

Ans. I suppose it is a mile.

Question. You generally run as far as Kennedy's house?

Ans. Sometimes we run to Kennedy's, and sometimes a little lower down.

Question. All that you say about the navigation of it has reference, I pose, to the present stage of the river?

Ans. Yes, sir.

Question. When you start across you run up either to Kennedy's or a little below that—just as you judge about that?

Ans. Yes, sir.

Question. In holding up to make that crossing, how would the jack-staff be in respect to Twelve Mile Point?

Ans. It would be under the point some until we got over that way, and then we would strike up and bring the staff outside of the point.

Question. About how far below Twelve Mile Point would you be before you would strike up with the right-hand shore?

Ans. Well, a mile and a half.

Question. What do you think is the distance, the way boats usually run, from Kennedy's to Twelve Mile Point?

Ans. I should think it was about two miles or upwards.

Question. Do you know anything of an eddy, at this stage of the water, under Twelve Mile Point?

Ans. There isn't much of an eddy, at this stage of the water, anywhere. There is some. There is one here, but not a great deal. The current is sluggish now. There is an eddy under the point, but not much—not a material or a very serious eddy now.

961 Question. Have you any knowledge of how far out that eddy is felt in the river under Twelve Mile Point?

Ans. Well, perhaps a hundred yards.

Question. Do you know any rule of navigation that would prohibit a boat coming down the river and rounding Twelve Mile Point from falling in and striking down with the shore as near as she could safely run into it, if there was no boat coming up?

Ans. I don't see anything to prevent a boat, if there was no boat coming up; there is good water within perhaps a hundred and fifty yards of shore.

Question. Do you know the class of a boat like the Sabine?

Ans. I never saw her; she is a stern wheel boat, I believe.

Question. She is of about four hundred tons, having on board between fifteen and sixteen hundred bales of cotton.

Ans. I suppose she would draw five feet, loaded.

Question. It is said in this case that the Sabine, a boat of about four hundred tons, was coming down the river on this night with about fifteen hundred or sixteen hundred bales of cotton on her; a very strong gale blowing on the left-hand shore; would you have considered it more prudent, when there was a strong gale blowing there, for a small boat of her class, loaded as she was, to keep nearer to the right-hand shore, to fall off of the point?

Ans. I myself have often ordered my boat run close to the lee shore in heavy winds and big swells; we always hunt the lee side and run on.

Question. Which do you call the lee side?

Ans. The shore from which the wind is blowing; when the wind is blowing off a shore, we run on that shore.

Question. When there is a heavy gale blowing are there not pretty heavy waves in that vicinity, around Twelve Mile Point, and in the river below?

Ans. Yes, sir; I have seen heavy swells in the reach below Twelve Mile Point, with an east wind.

Question. Has not that condition of things in the river a tendency to rack and render unmanageable a small stern-wheel boat heavily laden with cotton?

Ans. Yes, sir; I have seen the best of boats battered in winds; I myself went alongside the T. P. Leathers, at the Red Church, and if I had not gone to her, I believe she would have been lost; she was laying broadside and was floundering.

962 Question. Would it be more safe or prudent for a boat under those circumstances, with a heavy gale blowing, to fall in as close to the shore, under Twelve Mile Point, as she could conveniently run, or would it be equally as safe to make a wide crossing and fall in the other point, on the other side; which course would you take if you had a little boat like that?

Ans. As I told you before, I would keep my boat from the wind.

Question. Which side of the river?

Ans. I should keep to the side that the wind was blowing from; if the wind was blowing from the point, I should keep to the point, because you always catch the swells from the shore when you go out.

Question. The winds are heavier in the middle of the river?

Ans. The farther you go from shore where the wind strikes the water, of course, the bigger the waves you strike; it is like vessels out at sea; they hunt a harbor in time of a gale.

Question. When you are going up the river, and have left Carrollton, and are going around Nine Mile Point, how far up the river can you see the light of a descending boat?

Ans. Well, you ought to see the lights of a boat—the signal lights—two or three miles.

Question. Is there anything to prevent you from seeing all the way up to Twelve Mile Point?

Ans. Not if you are on the Nine Mile Point.

Question. Could you not see above Twelve Mile Point?

Ans. Well, there is a good deal of timber, which might prevent you from seeing it; there is a good deal of willows growing around Twelve Mile Point, under and above it, which might prevent you from seeing a boat descending.

Question. Is there any reason why a boat going up, after rounding Nine Mile Point, and going up as far as Kennedy's, and seeing a descending boat, is there any reason why the ascending boat should not go any way which may be necessary, to avoid a collision?

Ans. If there are contrary signals passed, boats should stop; whenever there is a counter whistle, they should stop.

Question. Is the condition on both sides of the river such that a boat having gone up as far as Kennedy's or around Nine Mile Point can run on either side of the river she choo'es, so as to make her avoid anything up the river?

963 Ans. No, sir; there is no objection to a boat going the whole run up from Nine Mile Point to Twelve Mile Point and keeping that shore; in a high wind I have done it myself, going up stream.

Question. Is it not desirable to avoid the meeting of descending and ascending boats in long crossings, when practicable?

Ans. Oh, yes, sir; a boat should never start across the river when she sees an ascending boat, unless she has ample room to cross.

Question. If you were running up, and had rounded Nine Mile Point and got as far as Kennedy's, and saw a descending boat under Twelve Mile Point, or about rounding Twelve Mile Point, would you attempt to make your crossing until you ascertained exactly just where she was going?

Ans. Well, there is plenty of time to make a crossing from Kennedy's to Twelve Mile Point; if you see a boat a mile and a half from you, there is plenty of time to go over; sometimes you see a boat coming down, and you want to take the other side, and you may go across to the other side in time.

Question. You make a shorter crossing?

Ans. Yes, sir; or go above her, just as you please; there is nothing to compel a man to cross at any particular point to avoid a down stream boat; the thing is to know that you are clear.

Question. There is no rule then of navigation that compels an up stream boat or a down stream boat to go on the one side or the other, is there?

Ans. The supposition is, that if the ascending boat is running the

shore, her place is to stay there, unless there is something to confound her from her course, and then she would have to stop and give way.

Question. You have no knowledge of where this collision actually occurred?

Ans. No, sir; I don't know.

Question. You do not know where the wreck lay?

Ans. I saw the wreck laying there Saturday; but where the collision occurred, I don't know.

Question. Where was that wreck laying?

Ans. A mile and a half below the point, I reckon.

Question. How far do you think that would be in a straight line across from Kennedy's?

Ans. The wreck was laying above Kennedy's, and about two-thirds of the river from Kennedy's.

Question. Between Kennedy's and the wreck it was about two-thirds of the river?

Ans. Yes, sir.

964 Question. Running a straight line across from where the wreck was laying, how far would that line have fallen above or below Kennedy's house; she is laying down below Twelve Mile Point, and between that and Kennedy's side of the river; if you run across from where she is laying to the other side of the river, how far would it fall from Kennedy's house?

Ans. Do you mean to run a straight line from Kennedy's house.

Question. No, sir; from where the boat was laying to the other side?

Ans. I didn't notice very particularly, but I think she was laying above Kennedy's house; it was night when we passed by there; I supposed I would find her against the bank, but she was laying out in the river; I did not pay particular attention to where she was; it was a bright night; she lay a third of the river on the New Orleans side; about three hundred yards or somewhere about that; I couldn't tell exactly.

Question. Suppose a descending boat is about Twelve Mile Point, not yet having rounded the point, and she sees an ascending boat in the river, below and on the opposite side of the river from Twelve Mile Point, would it be more prudent for her to round Twelve Mile Point close, and strike up with the shore under Twelve Mile Point, or steer across and try to make her crossing over to the point on the other side?

Ans. Well, I explained that just now in my answer to nearly the same question, that the ascending boat running that shore, and seeing another boat, unless she had time to cross ahead of her, why she wouldn't start across, for she would insist upon going up a little higher; I do not think the ascending boat would start across the river, seeing another boat coming, without having ample time; at least it would not be prudent to do so.

By Mr. COHEN:

Question. Let us suppose you are on the ascending boat, and have already rounded Nine Mile Point, and you see a boat descending, rounding Twelve Mile Point; from your knowledge of the usual course of boats, in ascending and descending, would you not have a right to suppose that that descending boat would leave the New Orleans side and come over, so that it would be full time for you to go across and make a long crossing?

Ans. Yes, sir; if you are going up below a couple of miles, you very naturally conclude that you have time to go over and strike up by that shore.

965 Question. State whether or not you would have a right to expect that the descending boat, which is just rounding Twelve-Mile Point when you are rounding Nine-Mile Point, would come across; would you suppose, from your knowledge of the usual course of boats, that the descending boat would pass over to the other side, and that it would be safe for you to make a long crossing?

Ans. Yes, sir.

Question. If you saw that she did not pursue the usual course of descending boats, you would stop and regulate yourself accordingly?

Ans. Yes, sir.

Question. With regard to the distance with which the ascending boat, having rounded Nine-Mile Point, could see the descending boat, near Twelve-Mile Point, does it not depend upon the stage of the water as to whether you can see her; can you not see, sooner and better in high water, this descending boat, from the point where you are, than if the river was low?

Ans. Oh yes, sir; you can see the boat better because you have her some thirteen or fourteen feet higher than you have her now.

Question. In the present stage of the river it would not be so easy to see a boat at a distance as to see her when the river is higher?

Ans. Yes, sir.

Question. I ask you whether, in a low stage of the water, it would be more difficult to see a boat than in a high stage of the water?

Ans. Yes, sir; of course it would be easier in high water.

By Mr. EAGAN:

Question. Is it easier to handle a boat going up stream, when partially loaded, than one going down stream—does it make a difference in the handling?

Ans. The ascending boat is the easiest managed.

Question. Is it not the duty of the ascending boat to keep out of the way of the descending boat?

Ans. That is what I have tried to do and did.

Question. That is one of the regulations of the river?

Ans. Yes, sir.

Question. Now, suppose a large boat, like the Richmond, were going head on into the bank, under Twelve-Mile Point, and was within
966 one hundred yards of it, could she get out of that without backing; could she steer up and go around?

Ans. No, sir; she could not.

Question. She would have to back out?

Ans. Yes, sir; if she was under full headway, within a hundred yards of shore, and pointing towards it, she would certainly have to back out.

Question. Suppose she was not under full headway, would she not still have to back out?

Ans. She might spring herself up, if she did not have big weight on her, but she certainly could not do so, with headway on her, within a hundred and fifty yards of shore; she would have to back.

Question. Suppose she had full headway, and was only a hundred yards from shore—I mean a boat of the description of the Richmond—could she be backed out without striking the shore?

Ans. I don't think she could.

Question. Then what distance could a boat of the size of the Richmond be stopped still from the time you first attempted to do it?

Ans. In still water?

Question. Yes, sir.

Ans. I think she would go two lengths of herself.

Question. That would be about two hundred yards?

Ans. Yes, sir.

Question. How many revolutions of her wheel would it take to stop her?

Ans. Well, I should think it would take some six or ten revolutions to stop her.

Question. On one wheel?

Ans. No, sir; both.

Question. You think that would stop her?

Ans. If she was light, it would; if she was heavy, it would not; she might go further.

Question. Have you ever experimented on the distance a boat can be stopped?

Ans. Well, I have tried them in all ways, and sometimes I have failed to stop them in time. When a boat is driving twelve or thirteen miles an hour, you must calculate what time you can catch her up and back her up, and she will soon go a length after you ring the bells and stop her; it doesn't take long. I don't think there is any boat that can be backed up within a length of herself.

Question. Could she be checked within a length of herself, or her speed checked?

Ans. You check her speed as soon as you stop her engines and reverse them, but she would not stop entirely; she would run two hun-
967 dred yards. I don't think the Richmond could be stopped or backed up within two hundred yards in still water. I have never been on her, and never traveled on her, but from handling various boats I know that a hundred yards is a mighty short distance, if you are in danger, to stop.

Question. I don't understand that you have answered that question that Mr. Marr had reference to. Suppose a boat like the Sabine was coming down around Twelve-Mile Point, and she discovered an ascending boat by her lights, distant about one mile, coming up the right bank of the river, would it be prudent for her, knowing the usual track taken by those boats—for that boat might be crossing or not crossing—would it be prudent for her to cross into that point; or, in other words, would not the proper course be for her to turn short around Twelve-Mile Point and turn into that shore to avoid the other boat?

Ans. That is a hard point to get at. If the other boat was coming up by Madame Waggaman's store, and saw that boat coming down, I don't think it would be necessary for the descending boat to try to get out of the way. I think it would only be necessary to keep in shape with the river, and let the ascending boat do the maneuvering; if she would keep to that shore, of course the other boat would not go to it; the down-stream boat has no necessity to go to either shore; it is just as she pleases about that; the other boat would not start to make a crossing unless she had time to make it; it is a very difficult thing for me to explain to you, unless I saw the thing; an ascending boat running up a shore should never leave it to run across the bow of a descending boat under any circumstances; but if she is going up a shore, she would lay herself liable if she was to leave that shore in consequence of meeting a descending boat coming down the shore; the best way to avoid is to stop and back when there is a counter signal given; that is the only way we can do it.

Question. Suppose the proof was, that the pilot of the steamer Richmond discovered the steamer Sabine, distant one mile, coming around

Twelve-Mile Point, and she was making her crossing, what side should she have taken?

Ans. Well, if she saw a boat coming around, and she was making her crossing, she ought certainly to have kept on in making it, for she could make it in time.

Question. Suppose the Richmond was one mile off, and had
968 either turned or was about to turn for the crossing, and she discovered the Sabine rounding Twelve-Mile Point, was it prudent in her to run in and take that shore from the Sabine?

Ans. Well, if the pilot of the Richmond was steering to the point, and saw the other boat coming around the point, it was then his duty, when he steered for the point, to hold her closely to the point to give the descending boat a chance to go on the outside; if the signals had passed for the Richmond to go to the point, she could have gone faster to the point if she found any trouble with it; she could have gone quicker to the point than she would if she had seen no descending boat in the way.

Question. Suppose the signal that passed was on the part of the descending boat for the shore which she had then, would it have been prudent, on the part of the Richmond, to try to take that shore?

Ans. There was no alternative but for her to stop; whenever there are contrary signals passing between the boats, then the best way you can get out of it is to stop; it is just like you driving on the street with one buggy and me with another; if we both want to go on one side, it is better to stop.

Question. If you had been the pilot of the Richmond, and you had heard the signal of the Sabine for the shore, you would have stopped the Richmond?

Ans. Yes, sir; if I was running for the shore, I should certainly have done so.

Question. You would have stopped immediately?

Ans. Yes, sir; if we were within striking distance, and the wrong signals were given, of course I should stop.

Question. Would you not consider it an imprudent maneuver on the part of the descending boat if she saw the ascending boat to her right, and attempted to cross over to take the other shore from her?

Ans. Well, as I have answered two or three times, I would not start over with my boat, if I was at the helm, unless there was time to get over.

Question. If you were only distant a mile?

Ans. A mile is a pretty short distance for steamboats, and if I had left the shore and saw a boat coming around Twelve-Mile Point, I should hasten to that point to get into position to meet her; then, when a contrary signal is passed, one blowing for the right and one for the left, the only thing to avoid a collision is to stop, because they are both contending for the same thing, which will not do.

Question. If the ascending boat had not started to cross, you would consider her bound to keep the same side?

969 Ans. Well, of course, if a boat is running that shore she has a right to that shore; if she is going up that shore, she may want to run up by Waggaman's; and if she goes up the Kennedy shore, she has a right to it, and the descending boat has no right to try to take it away from her if she is running up that shore.

Question. Suppose the descending boat saw a boat ascending on that shore, on the right bank of the river, not knowing whether she was going to land at Waggaman's or whether she was a coast packet or what

track she would take, would it not be prudent for her to keep the shore she was on, rather than run the risk of running on another boat that was on that shore.

Ans. That shore is not one that a boat would run on down stream under the Twelve-Mile Point unless she had an object in it; they hardly ever would run that shore unless they had some object in meeting a boat or a tow, or something of the kind altogether out of the way.

Question. My question is, whether it would be advisable on her part to keep that shore instead of running the risk of colliding with something on the other side, which she could not discover, of course, being a mile away?

Ans. It is hard to suppose a case of that kind unless I could see it; I say I would not have run that shore, unless I had had some outside object in running it with a down stream boat; the deep water is on the other shore; it is a flat bank on this side; I think the river is quite or nearly a mile wide, and one shore is shallow, and the other is deep.

Question. You have stated, just now, that you have often run the right shore up to Waggaman's?

Ans. Yes, sir; I have often taken my family up there; it is just about the bite of the point.

Question. You frequently do that when there is a strong southwest wind blowing?

Ans. We run that way when the southern wind is blowing; I have often run that shore all the way.

By Mr. :

Question. Look at this chart (shown chart) of the river, marked Exhibit A, and filed with suit No. 2892 of the United States district court, in admiralty, and referred to in the testimony of the pilots of the
970 Richmond; you will observe on the chart that the course of the Richmond is designated by dots; you will observe also that there are places marked on this chart where the Richmond gave her first signal for the Sabine; now, the Richmond, according to that chart, had started to make a long crossing from Kennedy's, and having gone more than two-thirds of the way from Kennedy's, under the point, and being, probably, one-third of the distance of the river from the shore, under the point, saw a boat coming around the point; now, what would have been the proper course for the Richmond to have pursued, from that point marked on the chart where the first signal was blown for the Sabine?

Ans. I should follow the course designated by the dots as the course of the Richmond.

Question. Now, the Richmond being well in under the point, along the right bank, going up, and seeing a boat coming down, immediately around the point, about opposite Soniat's, or a little below there, would the Richmond's pilot be justified in keeping to that shore and avoid a collision, by bringing his boat round in closer to the shore?

Ans. He is close enough here; this dot alone is close enough (referring to chart).

Question. Would he be justified in swinging his boat in closer to the shore, in order to give the Sabine an opportunity of passing him to the right?

Ans. He would be justified in going as close in there as he could.

Question. What would be the proper course for the Sabine to pursue, when she saw the Richmond at the point designated on this chart as the place where the Richmond sounded her first whistle to the Sabine; what

would have been the proper course for the Sabine to have pursued in coming out from above that point?

Ans. The other boat ought to have kept to the left of the ascending boat; that would be the natural consequence.

Question. Do you mean out into the stream?

Ans. Yes, sir; when a boat sounds her signal by one whistle, it means to the right of the ascending boat; and when the other one sounds one, it puts her to the left; it means the left of the ascending boat.

(Mr. Egan here objected to the chart shown to the witness, on the ground that he had no recollection of having seen the marks where the signals purported to have been given when the chart was first referred to by Mr. Frank Cayton, a former witness.)

971 J. N. BOFINGER, sworn by Alfred Ingraham, esq., United States commissioner, on behalf of claimants.

By Mr. CAMPBELL:

Question. Examine that chart (shown chart) and state whether you saw it before, and whether you saw it before it was referred to by Frank Cayton, in the evidence in this case.

Ans. I did.

Question. Is it exactly in the same condition as it was when you first saw it?

Ans. Ye', sir, precisely; there is not an alteration in it, that I see.

By Mr. BILLINGS:

Question. These marks as to where the signals were given were there?

Ans. Yes, sir; and the position of the Sabine and the Richmond, and everything else; I examined it thoroughly before it went into court, and I examined it when Mr. Cayton was giving his evidence.

JOHN T. MCCORD, recalled and sworn by Alfred Ingraham, esq., United States commissioner, on behalf of claimants.

By Mr. CAMPBELL:

Question. State whether you saw that chart before (shown chart).

Ans. Yes, sir.

Question. State whether it is now the same way it was then.

Ans. Yes, sir; I examined it and saw it before you did.

Question. As to all its marks and dots and everything, it is the same?

Ans. Yes, sir; the position of Waggaman's house, and everything.

T. P. LEATHERS recalled.

By Mr. MARR:

Question. If this chart lays out the place where the Sabine was
972 when she was first seen by the Richmond, was not the Sabine then about making the turn of Twelve-Mile Point; was she not abreast of and lapping Twelve-Mile Point?

Ans. She was in sight when the first whistle was blown.

Question. The witnesses do not pretend that the whistle was blown as soon as the boat was seen?

Ans. She blowed her whistle in the crossing according to this chart; I don't know anything about it; the Richmond was fully half over the river when she blew her first signal; if she blew for the point, of course,

she being there, and seeing a boat coming there, ought to have went to the point.

Question. That was not the place where she was when the signal was blown, but that was the place where she was when they first saw her?

Ans. When her first whistle was sounded, if it was sounded at the place indicated on the map (I am speaking only of the map), and if it was sounded for the right side, she should have continued the right side; she should have continued running to the point, and the other boat should have gone off to the Richmond's left as she approached; the other boat should have answered the whistle and kept to the right of herself.

Question. That statement of yours is based upon the idea that the Sabine was where she is represented on this chart as being at the time the whistle was blown?

Ans. Yes, sir.

Question. But they stated in their testimony that the first whistle of the Richmond was blown when the boats were about eight hundred yards apart; now, when the Sabine opened out upon the Richmond, so that she was seen by the Richmond coming up this way (referring to chart), would you not say that she was just about abreast of, or about rounding that point?

Ans. Yes, sir; that is laid down there for Soniat's gate, which is around the point.

Question. If the boats had gotten within eight hundred yards of each other when the whistle was sounded, must not the Sabine have rounded the point and got in there under the shore?

Ans. They ought to have seen one another before they got in eight hundred yards of each other.

Question. They say they saw each other a mile off, but that the whistles were sounded when they got eight hundred yards from each other;
973 by that time must not the Sabine have made the rounding of the point, and been under the point; in other words, if the Richmond was a mile off from the Sabine when the Sabine was just abreast the Twelve-mile Point, by the time the Richmond could have gone up the river so far, and the Sabine could have come down the river, so that they would have been within eight hundred yards of each other, must not the Sabine have already rounded Twelve-mile Point and been in under the point?

Ans. Well, if these two boats had kept their course on the chart as laid down, right where the first signal was sounded of the Richmond, they would have missed each other a quarter of a mile.

Question. You mean if the Sabine was where she is represented to be on the chart, and the Richmond was where she is represented to be on the chart at the time the signal was given; but they were near a mile apart when they were first seen. The boats were within eight hundred yards of each other when the signal was sounded. Now, by the time the Sabine had gone down the river far enough and the Richmond had gone up the river far enough to bring them within eight hundred yards of each other, where they were when the Richmond's whistle was sounded first, must not the Sabine have already rounded Twelve Mile Point, and been under the point?

Ans. Of course she would. When they were eight hundred yards apart they were pretty close together. Eight hundred yards is a very short distance to handle boats in.

Question. Now, captain, judging from this chart itself, which repre-

sents that boat as being about Soniat's gate, how far would you say the Sabine would have to run to round that point and come in under the point?

Ans. Well, that is a very short point, and if she run down that shore and doubled herself under there, she would get there pretty quick.

Question. Would she have to run a mile?

Ans. She could run and get under Soniat's gate in a quarter of a mile.

Question. Well, if the positions had so changed that the Sabine had gotten in under Twelve Mile Point, and close in to that shore, when they were eight hundred yards apart, was it proper for the Richmond to insist upon that shore, or did prudence require that the Richmond should have gone the other way, and passed on the outside of the Sabine, and rounded Twelve Mile Point on the outside of the Sabine?

Ans. Well, now, I will answer you in this way: Had the Rich-
974 mond given that shore up she would have laid herself liable by all the laws in the world. She may be wrong, and both boats may be wrong, but there is no way of correcting the wrong only by stopping and avoiding it. If the Richmond had undertaken to run away from this shore to get away from that boat, she would have laid herself liable. It would be right to hold off if you know, but it is hard for a man to know at night what another man is doing; and if the two both signal for the same point, there is but one way to do, and that is to back out and make the best of the fight you can; but a boat that is going up this shore at Twelve Mile Point has no right to think that another boat is going to come into that shore at all. She must know her own course, and be governed by signals; and when a counter signal is given by boats there is but one way to do, and that is to stop.

Question. The thing I am trying to get at is this: I have already come to the conclusion that the Sabine when the boats were within eight hundred yards of each other must have rounded that point?

Ans. She had rounded that point, and got under it considerably.

Question. The pilot of the Richmond must have known where Twelve Mile Point was, and he must have known that the boat was between him and Twelve Mile Point, and on that shore. He could not help knowing that?

Ans. No, sir.

Question. Suppose he had held over to his larboard, or steered to his larboard, and got his helm in such a way as to go out into the river, would he not have avoided the Sabine entirely?

Ans. He might have done it, but if he was running for that shore, and blowed his whistle for that shore, he certainly had no right to leave that shore unless he could leave it with safety. If the whistle was crossed by the other one, then both should stop.

PATRICK KANE sworn by Alfred Ingraham, esq., United States commissioner, on behalf of claimants.

By Mr. CAMPBELL:

Question. Were you employed on board the steamer Richmond at the time of this collision with the Sabine?

Ans. Yes, sir.

975 Question. In what capacity?

Ans. Deck-hand.

Question. Where were you just before this collision on the Richmond?

Ans. I was forward of the steps, between the steps and the larboard derrick.

Question. What were you doing there?

Ans. I was covering the sugar and putting wood on the tarpaulins.

Question. Were you on watch at that time?

Ans. Yes, sir; my watch was from twelve to four.

Question. Were you on the lookout there in front that night?

Ans. Well, occasionally. I was still covering the sugar up, or had done the sugar, before the collision.

Question. State whether or not the cargo of the Richmond was stowed before the collision.

Ans. Yes, sir; all stowed and covered.

Question. How long had it been stowed beforehand?

Ans. It was stowed probably an hour before that. After leaving the elevator, probably an hour and a half, we had finished.

Question. Did you hear any signal from the Richmond?

Ans. Yes, sir.

Question. Did you hear any bells ring?

Ans. Yes, sir.

Question. Describe what you heard.

Ans. Well, I heard her whistle, and I thought it was a landing we were going to make. I paid no attention to it at the time. I looked around to see if I could see the watchman, and I couldn't see him. In a few moments she blowed another whistle. I looked around and saw something coming down towards her, kind of quartering like; and the first thing I saw was the cotton on that little boat.

Question. Whereabouts?

Ans. Well, I couldn't judge how far off it was at the time coming down the river. It was close to the right-hand shore.

Question. What was close to the right-hand shore?

Ans. The Richmond was.

Question. Whereabouts were you standing at the time you saw that?

Ans. Right on the boiler deck. When I saw her coming towards us I retreated back on the boiler deck. We were after putting up new booms that day, and I didn't want any coming down on me.

Question. When did you hear the engine bells of the Richmond?

Ans. What time in the night do you mean?

976 Question. You heard the whistle, you say?

Ans. I heard the whistle, but I didn't pay any attention to what she was doing. I was putting wood on the tarpaulins.

Question. Where did you hear these engine bells; how long was it after the whistle?

Ans. About a minute and a half, or a minute; I couldn't tell exactly.

Question. After the first whistle?

Ans. Yes, sir; it was a short time. I wouldn't be certain.

Question. Did you hear the gongs?

Ans. Yes, sir.

Question. When did you hear them?

Ans. I heard the gongs after the bell rung. It stopped, and the last one I heard was to back.

Question. Do you know whether the boat was backing or not?

Ans. Yes, sir; I do.

Question. Was she backing?

Ans. Yes, sir; she was. She backed either two or three revolutions, I couldn't tell which.

Question. How did the Sabine and the Richmond come together?

Ans. Well, about at right angles. She struck us on the larboard knee and knocked that in, and struck herself about the starboard side, right opposite the derrick. About thirty-five or forty, may be fifty, bales of cotton dropped right in. Then I got back further on the larboard guard.

Question. How did it appear to you that it happened?

Ans. I couldn't say about that. Both of them came together. I couldn't tell which of them was in fault. She came kind of quartering on her. It looked like she was trying to get inside of her. I couldn't say. I had been busy all that day and all that night. I was tired and sleepy, too, but still it was my watch on deck, and I had to be out there.

Question. How far was the Richmond from shore at that time when they came together?

Ans. Well, sir, I should judge it was about two hundred yards. I will not be positive; may be over; two or three hundred yards; somewhere about that.

Cross-examined by Mr. MARR:

Question. What time did you leave the elevator that night?

Ans. I couldn't say. The engineer's clock was stopped that night. I went to look, and I think it was stopped.

977 Question. How far do you think it was from the elevator to where these boats came together?

Ans. I don't know exactly; they call it the Twelve Mile Point; it was under the Twelve Mile Point.

Question. Do you know what speed the Richmond was making that night?

Ans. No, sir, I do not.

Question. Do you think you were as much as an hour in righting up the freight of the boat before the collision occurred?

Ans. Yes, sir; because it is very hard to get niggers to do anything at that hour in the morning, after working all night. I had a good deal of trouble to get them to cover up the freight at the time; it was drizzling rain.

Question. Had she some of her cargo amidships?

Ans. She was stowed pretty even; she was full in the deck-room and galley, on each side; both guards clear, and forward of the forecastle clear.

Question. Do you think it took you as much as an hour, after leaving the elevator, to right up the cargo?

Ans. All that was to be done was to right up the tarpaulins, and so forth; the freight had been stowed right there as fast as it came in.

Question. Did it take you an hour, after you left the elevator?

Ans. I could not say whether it was an hour or a half an hour.

Question. You have no idea what speed she was making?

Ans. No, sir.

Question. Were you in the habit of running on the Richmond?

Ans. No, sir; that was my first trip on her.

Question. It was not your business to keep on the lookout?

Ans. Yes, sir; I am paid for it.

Question. You are a deck hand?

Ans. Yes, sir; I am six hours on and six hours off; that is, when we are under way; in port we work all day.

Question. Do you mean by that that it was your business to look out and see if any boat was coming?

Ans. Not particularly; not looking out that way, but looking around the boat to answer for the lead when the pilot taps the bell.

Question. Between the place where you stood and the stem of the Richmond, was it all open; was there anything between the place you stood at and the stem of the Richmond?

Ans. Nothing but the stages; I had been ordered to put noth-
978 ing there, because she was broke down on the bow; Mr. McCord told me not to put anything there.

Question. You say she broke down in the bow?

Ans. I don't know; it was from some heavy weight previous to this, I suppose; more weight there than other places.

Question. Well, when you heard the whistle, did you look out to see if there was any boat in sight?

Ans. Well, yes; I looked towards the shore and around.

Question. How near were you to the shore?

Ans. Well, probably about two hundred yards; I couldn't judge exactly; I didn't measure it; I should think it was about two hundred yards from the shore; we were close to the shore.

Question. It was the starboard shore?

Ans. The right-hand shore going up.

Question. You looked to that shore, did you?

Ans. I did.

Question. Did you see how your boat was heading at that time; was she heading towards that shore?

Ans. She was going right up along the shore at that time.

Question. Did you notice when she began to make her crossing from the other side of the river, over to that right-hand shore going up?

Ans. No, sir; we had not got that far yet.

Question. You had not commenced making the crossing?

Ans. No, sir.

Question. Do you know the river along there?

Ans. Well, yes, some; not very well, though. I have never been much in the coast trade, but I have been in the cotton trade in all points to Vicksburg.

Question. You heard the whistle of your boat—one whistle?

Ans. Yes, sir.

Question. Did you hear any whistle from the other boat?

Ans. No, sir, I did not; I paid no attention to it at that time; I was not thinking of anything of the kind; I thought it was a landing we were going to make; I would have looked much sooner if I had thought a boat was there.

Question. You were busying yourself mostly about putting some wood on the tarpaulins, to keep the tarpaulins down?

Ans. Yes, sir.

Question. And when you heard the whistle you thought she was going to land?

Ans. I stood up and looked around to see what she was going to do.

979 Question. You heard the first whistle, and then after a little while you heard another whistle from your boat, one blast each time?

Ans. Yes, sir.

Question. As well as you can recollect, what length of time was it from the time you heard the last whistle of the Richmond before you heard the engine-bells ring?

Ans. I couldn't say exactly; I know it was not quite immediately; probably it might have been two minutes, or a minute and a half.

Question. You were where you could hear the engine-bells well?

Ans. Yes, sir; you can hear them all over the boat.

Question. Is the stopping bell of the Richmond a large bell?

Ans. Well, I don't know whether it is or not; it is a good sized bell.

Question. You heard that bell very distinctly; was it the bell for both engines that you heard ring to stop?

Ans. That I couldn't say.

Question. Did you hear two bells?

Ans. I did; I heard the stopping bell and the backing bell. The backing bell is an alarm bell; you can tell it from any other.

Question. Have you any idea how much time there was between ringing the stopping bells and ringing the backing bell?

Ans. No, sir; I don't know.

Question. Was it immediately, or do you think there was a little time between them?

Ans. There must have been a little time, but I couldn't say; the whole transaction happened inside of half an hour.

Question. Have you any sort of idea how long it was after you heard the stopping bells of your boat before you saw the Sabine?

Ans. No, sir, I have not; I know that we were backing when she hit us.

Question. But you do not know whether she was backing at the time you saw the Sabine first, do you?

Ans. No, sir; I couldn't say; I don't think she was when I first saw her.

Question. Have you any idea how far off the Sabine was when you first saw her?

Ans. No, sir, I couldn't judge; the first I saw was the cotton; she had cotton on the roof and cotton on the boiler deck.

Question. You just saw the mass?

Ans. I can tell a mast from cotton.

980 Question. I mean the mass of it.

Ans. Yes, sir; and I got out of the way.

Question. She was so near when you first saw her that you knew there was danger and got back?

Ans. Yes, sir; I dropped back, with my face to her; I didn't turn around; I wouldn't want to be forward when anything happened of that kind.

Question. What part of the Sabine did you say first touched the Richmond?

Ans. The starboard side, right opposite the derrick.

Question. That is just about on a line with the cabin steps, is it not?

Ans. No, sir; the cabin steps are inside the derricks; both derricks are outside the cabin steps; there is a gangway between them, as a general thing, and a hatch.

Question. How far would you say that was aft of the stem of the Sabine?

Ans. I don't know anything about the stem of the Sabine; I don't know the length of her, nor the width of her.

Question. Did not the cotton of the Sabine project beyond her guards?

Ans. It is generally bound to be.

Question. Did you not notice that it went outside of the guards of the Sabine?

Ans. Every boat is supposed to have it so.

Question. How many stacks of cotton did she have on the outside guard?

Ans. I should suppose about nine; I didn't count them.

Question. Enough to cover her all over?

Ans. Yes, sir.

Question. When the Sabine came in contact with the Richmond first, her cotton was piled up?

Ans. Yes, sir; it was piled up on both sides and in front.

Question. So that her cotton must have struck that knee of the Richmond?

Ans. Yes, sir, I expect it did; it tumbled aboard of her, about thirty-five or forty bales; it broke the knee and carried away her boom. I went up and made a line fast to it, and took it up again and made a line fast to her.

Question. Do you feel convinced that it was the cotton falling from the Sabine that broke the knee?

Ans. No, sir; I am not convinced that it was the falling against it that did it, but the striking of her against it broke it; the falling of a bale of cotton wouldn't break that knee, nor three bales neither; it is a pretty stout knee; they would hardly hurt it; it sits right on the nosing of the boats.

981 Question. How far do you think the Richmond's guards were sitting out of the water, just abreast of the knee?

Ans. I didn't see her water marks that night; after leaving we put in fifteen hundred boxes of sugar on her, and I couldn't tell how deep that fetched her in the water.

Question. You have no idea about it?

Ans. No, sir; if I saw her marks in the daytime I could tell.

Question. Did you notice that the guards of the Sabine were pretty well down in the water?

Ans. Yes, sir; she was well down in the water; I was the first man, I think, aboard of her after she struck; I took a line from us to her; and took a line from her ashore.

Question. Was it the cotton that knocked your boom overboard?

Ans. Our boom got a foul in it some way, and went overboard; it swung out into the river; I went up and made a line fast on it and hauled it in again.

Question. Did you notice how the Sabine was wounded or hurt?

Ans. No, sir; I couldn't tell, although I worked next morning with her and all the next day; we took all the dry cotton off that we could, and rigged several purchases to get the wet cotton, but it was only wasting time.

Question. How much nosing on the larboard guard of the Richmond was broken?

Ans. Nothing but the knee; but she was leaking forward.

Question. But there was nothing broken but the knee?

Ans. Nothing but the knee and some of the outriggers.

Question. Whatever broke the knee broke the outrigger that it was sitting in?

Ans. Yes, sir.

Question. There was no part of the guardworks of the Richmond broken except just that knee itself?

Ans. No, sir; nothing except that knee.

Question. Does the knee set just on the edge of the guard?

Ans. Yes, sir; close to the gallows-way, on the outer edge, right on the nosing.

Question. How far would you say that that knee was from the stem of the Richmond?

Ans. Well, I couldn't say; the Richmond has them pretty close to her stem—a good deal closer than other boats—closer than a cotton boat.

Question. That knee, you would say, was pretty well forward
982 on the bow of the Richmond.

Ans. I couldn't say what distance it was, sir; I couldn't tell.

Question. Have you ever, at any time, taken pains to inform yourself how the Richmond was broken down at the bow; the mate, you say, told you that she was broken down at the bow?

Ans. Yes, sir.

Question. Did you take the pains to find out how her bow was injured?

Ans. No, sir.

Question. You do not know what it was at all?

Ans. No, sir.

Question. But you were strongly charged not to put any cargo there?

Ans. Yes, sir.

Question. Did you put any freight in the hold forward?

Ans. Yes, sir; I put some bales of moss and kegs of beer, and something of that sort.

Question. Nothing heavy?

Ans. No, sir; the nigger works down there forward, and you can't put anything there anyhow; it has got to be left vacant, so that in case of getting aground you would have room to work it.

Question. You had no cargo there on the guards, or in the body of the boat, or on the deck of the boat, forward of your coal box?

Ans. Yes, sir; we had way freight for Memphis; we had lots of way freight; we had sugar for Cairo forward of the coal box.

Question. Did it go up as far as the cabin steps?

Ans. Well, no, sir; it came up to the third stauncheon.

Question. How far do you think it was after the cabin steps?

Ans. Well, it is about abreast of the after combings of the hatch.

Question. Did you see any stars that night?

Ans. No, sir; I couldn't see whether we had any or not; it was kind of drizzling rain, I know that; just before that I went to get my coat, and when I come out my partner had gone to get his coat.

Question. Was the wind blowing pretty hard?

Ans. Yes, sir, some; it was blowing off the right-hand shore; that was the side I was putting the wood on the tarpaulins, to keep them down; I mean the starboard side, going up.

Question. That is the shore under Twelve Mile Point?

Ans. Yes, sir.

Question. The wind was blowing from that shore?

Ans. Yes, sir.

983 Question. Was it a pretty lively wind?

Ans. Yes, sir; it was.

Question. Was the river rough?

Ans. Oh, no, sir; the river wasn't rough; still it blows harder than you think it would blow on land or in town.

Question. You did not see the opposite shore at all?

Ans. No, sir; I did not.

Redirect by Mr. CAMPBELL:

Question. You were a deck-hand and accustomed to stowing freight?

Ans. Yes, sir; I have followed it for about sixteen years.

Question. How much freight would you, as a deck-hand, understanding your business, stow on the bow of a boat like the Sabine—I mean cotton—say within ten feet of her stem forward; would you put any cotton at all within ten feet of her stem?

Ans. No, sir; I would not; I have not done it on boats I have been on; they generally let it run out about three bales from the steps.

Question. How much does that leave between the cotton and the stem?

Ans. I couldn't say.

Question. Does it leave fifteen feet?

Ans. Yes, sir; about fifteen feet; we have got to leave room for the capstan and the gangway, or the stage; we have to have a place to carry out hausers.

Question. On a cotton boat?

Ans. Yes, sir.

Question. Did you notice whether there was any cotton within fifteen feet of the stem of the Sabine?

Ans. No, sir; I didn't take particular notice that way.

Question. Now, as to the stowing of freight on the bow of the Richmond, do you stow much heavy freight on the bow of any very sharp boat?

Ans. No, sir; not on a boat like her you do not; I have on these bull-head boats, where they are high forward, but not on a boat like her; she is not built to hold freight on her bow.

By Mr. BILLINGS:

Question. Did the wind shift that night, before morning?

Ans. Well, that I didn't take notice of; I was out in a yawl
984 from that to daylight—the mate and me; we made fast to the stem, and pulled it; I was pretty wet and came in, and was sleepy.

Question. You do not know, particularly, what time the wind did shift, if it shifted, that night?

Ans. No, sir; I didn't take notice; I was pretty well tired out.

SARAH C. SHIRLEY ET AL.
versus
STEAMBOAT RICHMOND.

Testimony for the steamboat Richmond, taken in presence of Given Campbell, proctor for steamboat Richmond, and B. Egan and R. H. Marr for libellants.

JOHN W. CANNON, being duly sworn, says:

Have been steamboating for about thirty-five years; commenced on the river in 1836; am the master of the R. E. Lee; have been a pilot on the river—Mississippi River—from 1840 to 1856; and have been a master of boats, and sometimes pilot, at the same time; have been engaged in the Vicksburg trade mostly for the last six years—between New Orleans and Vicksburg.

Am familiar with the river about Twelve-Mile Point.

Question. What would be the proper course for an ascending steamboat, leaving Nine-Mile Point, until she got to Twelve-Mile Point?

Ans. Either side is proper; either to cross over from the Nine-
985 Mile Point to the shore under the Twelve-Mile Point, and run up the shore under that point; the other way, if the wind was blowing

off the Nine-Mile Point or not, would be to run up the Nine-Mile side until you get to Kennedy's place, or above that, or to any point below Mrs. Waggaman's place, and then cross over, and fall in right on Twelve Mile Point.

The most usual course is to run up the shore above the Nine Mile Point, to a little above Kennedy's place, and then make a crossing to Twelve Mile Point; Kennedy's place is about two miles or two and a half miles above Nine Mile Point.

On crossing from a little above Kennedy's, if you make a long crossing, you fall in the point, and if you made a short crossing, you fall in a little under Twelve Mile Point.

Question. If a steamboat was making the crossing from just above Kennedy's, so as to fall in a short distance under the point, and while she was making her crossing, a boat should be coming down just above Twelve Mile Point, could the pilot of the descending boat, at night, see both the red and the green lights of the ascending boat; if not, which would he see?

Ans. I should think he could see both; the larboard signal red light he would be certain to see. The proper course for a descending boat, approaching Twelve Mile Point, ought to be pretty near the middle of the river.

Question. Would a descending boat, coming down above Twelve Mile Point, be in her proper place, if she were to see the light, at night, of an ascending boat, if the descending boat were to attempt to hug Twelve Mile Point close, and run down that shore, under the point?

Ans. No, sir; she ought to hold herself in the middle of the river, as near the shape of the river as she could; if she should see a boat ascending, and if she did not know how this boat was going to go, so as to keep herself perfectly clear to pass, she could then stop her engines; still hold steady in the middle of the river, and then back; if she stopped and floated, she was apt to float wherever the wind might blow her; if there was no wind, she wouldn't float anywhere, as there was not more than one and a half or two miles current at that time, and that current would have carried her straight down the river, if there was no wind, and might have drifted her a little more towards the bend.

986 Cross-examined:

Up stream boats, after they get above the Nine Mile Point, so that they can see the reach, begin to make the crossing; it is proper to make the crossing there, or right above Kennedy's; either place is proper; from the lower crossing, you fall in a mile and a half, at least, under Twelve Mile Point; from the upper crossing, above Kennedy's, if she made as her crossing, she might fall in a little under the point, and then hold out to round the point; at the stage of water as it was on the 10th of February, 1872, boats like the Richmond sometimes make a short crossing, and sometimes a long one; there is no particular reason for the difference; can't give any; pilots run there just according to their judgment and discretion, in regard to long crossings and short crossings, and with a view of getting up the river.

Question. If an ascending boat, in making a very short crossing, below Twelve Mile Point, would her lights—signal lights—be visible to the pilot of a descending boat, above Twelve Mile Point?

Ans. Yes, sir; whether making a short or long crossing.

Question. If the ascending boat is running square across the river, will they be seen?

Ans. I don't know; could not say; but that is not the proper cross.

ing; if the descending boat was far enough above Twelve Mile Point she could not see the lights of a boat crossing below Twelve Mile Point.

Question. How far above Twelve Mile Point can the pilot of a descending boat see the lights of an ascending boat, in the bend above Nine Mile Point?

Ans. It depends on the position of the ascending boat; if the descending boat is one half mile above Twelve Mile Point, she could not see them: but as soon as she gets around the point, she could see the lights three miles off.

Know where Soniat's gate is; it's just on Twelve Mile Point; the willows commence right below Soniat's house, about two hundred yards, and run down about half a mile or a mile; don't know if there is a railroad station a little below Twelve Mile Point, on the opposite side; there's no landing, that I know, between Kennedy's and Waggaman's place; there are landings at Mrs. Waggaman's; from Kennedy's to Mrs. Waggaman's, there is between a mile and a half or a mile and three-quarters; if I were to stretch a straight line from Mrs.
987 Waggaman's to the shore opposite, it would fall clear above the point; if an ascending boat makes a crossing from Waggaman's she falls in above Nine Mile Point, in the bend there; there is no reason, of navigation or convenience, to cause an ascending boat to cross from Waggaman's and fall in below Twelve Mile Point; she'll have to run down stream to get back under Twelve Mile Point; if I was on a descending boat, just above Twelve Mile Point, and saw the lights of an ascending boat in the bend, on the opposite side, near to Waggaman's, I would not conclude that the ascending boat intended to make a crossing, unless she gave me the signal that she was going to cross—that is, one whistle; and if she gave me the signal to cross, I would keep in the middle of the river.

Question. In the case supposed, if the ascending boat should give you the signal that she intends to make a crossing, would the descending boat increase the danger of a collision by hugging the point, and keeping close in to the shore as she could, under Twelve Mile Point?

Ans. Most assuredly she would; if she would keep in the middle of the river, how could there be a collision?

Question. The descending boat keeping close in to that shore would not be keeping out of the way of an ascending boat, in attempting to cross from Waggaman's?

Ans. Locate the boats, and I will answer the question.

Question. Is it possible for you to say how these boats ought to have been navigated, to avoid a collision, unless you know the respective position of the two boats?

Ans. No, it is not; I didn't come here to tell the position of the boats, but only to state how boats ought to run up and down the river at that part of the Mississippi.

Question. If you are ascending the river anywhere on the bend side above Nine Mile Point, and you see a descending boat anywhere near Twelve Mile Point, if you are satisfied that she is in her wrong place, is there any necessity of navigation to compel you to leave the bend shore, and place your boat in a position likely to endanger a collision with the descending boat?

Ans. No, sir; there's no reason why I should do it; there's not much of an eddy under Twelve Mile Point; if I saw a descending boat hugging in close to the shore under Twelve Mile Point I would not
988 attempt to make a crossing; I would stop my engine and let her pass by. An ascending boat runs about a hundred and fifty

yards off shore, under the Twelve Mile Point; at a low stage of water, you run farther off; when she gets to the point, she runs right close to it. If there is the width of the Mississippi River between the two boats, there's no danger of a collision. Have witnessed two or three collisions in my life. I can't see how the stem of a boat that hasn't headway can cut through the bows of another boat, and knock down her capstan. The Richmond is a pretty fast boat. If the Richmond's guards were clear of the water, and the Sabine also, there would not be much difference between her ascending and the Sabine descending the river.

Re-direct:

Question. If the ascending boat was already making her crossing, and she should see a boat coming down, above Twelve Mile Point, rather close to the shore above Twelve Mile Point, ought the ascending boat to keep her course, if she had proceeded to within one-third of the bank, under Twelve Mile Point?

Ans. Yes, sir; and make a shorter crossing, and try to get out of the way of the down stream boat.

Question. Might not such a cut as you have spoken about in your cross-examination be inflicted on the descending boat, if she should run against the stem of an ascending boat of the style of the Richmond—the descending boat having the headway?

Ans. How was the cut? Was it a square cut? If it was a square cut, it might be inflicted by the Richmond; and if a quartering cut, it might be inflicted by both boats.

J. W. CANNON.

Sworn to and subscribed before me, March 18, 1872.

J. A. CHARBONNET, *Deputy Clerk.*

989 SARAH C. SHIRLEY ET ALS. *versus* STEAMER RICHMOND. } No. 9822.

MERCHANTS' MUTUAL INSURANCE COMPANY *versus* STEAMBOATS SABINE AND RICHMOND. } No. 9823.

Testimony for steamboat Richmond taken May 22d, 1872, before Charles Claiborne, United States commissioner.

Present, G. Campbell, for Richmond; M. M. Cohen, for Merchants' Mutual Insurance Company; and R. H. Marr, for steamboat Sabine.

J. W. CARLTON, being duly sworn, says:

Am a steamboat captain; have been running on the river as pilot and captain fifteen years; am now running in the Ouachita River trade, and have been for about fifteen years; was pilot ten years and master the rest of the time.

Question. Can you tell me what is the proper course for a descending boat approaching Twelve Mile Point, if she should see an ascending boat, about a mile below the point, coming up?

Ans. Her proper course would be to keep to the right or starboard, to keep towards the bend opposite the point.

Question. If a boat coming down the river, just above Twelve Mile Point, and you were pilot at the wheel at night, and you should see one red signal light in the river below the point, how would you

990 conclude that the ascending boat was running—I mean in what direction she was heading?

Ans. I know hardly how to answer that, because a boat's signal lights must be forward of her chimneys—both of them. If I was meeting a steamboat and saw only one signal light, and that was the red one, I would think the green one was out. If the ascending boat was making the crossing below the point, and the descending boat above the point, both signal lights of the ascending boats should be visible plainly. The proper course for a large boat going up the river in the night would be to get above Nine Mile Point, and then make a long crossing and fall in below the Twelve Mile Point, to run up that shore. She would go from half a mile to a mile above Nine Mile Point before she commenced to make her crossing; I am speaking of a large boat; boats going up will be governed by circumstances—the wind, the current, the drift, etc.—in making their crossings; sometimes they may cross just above the point and sometimes they may go a mile and a half above. I know Mr. Harrison, who was on board the Sabine at the time this accident occurred. I have had him in my employment. I frequently told him that I wanted him to be careful not to take any chances in injuring the boat that was in a small river where the points are short. I gave him general instructions to be always careful that whenever he was not right certain, to stop the engines of the boat.

Question. Would you please state whether or not you consider Mr. Harrison to be a careful pilot?

Ans. I consider that he is a careful pilot; not as careful as many I have known—not near as careful as the pilots I now have. He has never been with me unless he was standing a watch for me—that is, my watch. I had the supervision over the wheel and him also. The reason why he stood my watch was because when a pilot is standing his own watch, I don't feel that I have a right to interfere with him; but when he is standing my watch then I feel that I have a right to control him and direct him. I don't recollect that he ever stood a watch on my boat except my watch. When I would go down stairs I would frequently caution him to be very careful.

Question. If one of the pilots, or either one of the pilots, now in your boat should be standing your watch, state whether or not you would deem it necessary to frequently caution him to be very careful?

991 Ans. I would not consider it necessary. Know Mr. Ensminger, who was also pilot on the Sabine at the time of this collision.

Question. Did you ever have any conversation with Mr. Ensminger in relation to this collision? If so, state when and where it was, and the conversation, as near as you can recollect.

(Procter for the Sabine objects to this question, if the object be to contradict Ensminger, on the ground that no proper ground has been raised for introducing evidence of contradicting statements made by him; and if the object be not to contradict Ensminger, he objects to it on the ground that it is secondary and not the best evidence.)

Ans. I had a conversation with Mr. Ensminger the night after the collision occurred on board of the steamboat Mayflower. In speaking of the collision, he said that he was in the pilot house of the Sabine when the collision occurred; he said that the night was tolerably dark and that he saw the light of a steamboat across the point; that the Sabine was running near around the point. He spoke of hearing the other boat blowing one whistle. They continued on their course around the point as they were going, and he spoke to Mr. Harrison, the pilot at the wheel,

and asked him if he had not better answer that boat's whistle. Mr. Harrison replied he didn't know whether the boat was whistling for him or not; and directly she blew one whistle again; that he spoke to him him again about answering the whistle. Harrison saw that he would go between her and the point and blew two whistles. I don't remember whether he saw that the Richmond blew a third whistle or not. He said the Richmond seemed to be headed directly for the Sabine at that time. The boats were very close together when Harrison blew his two whistles. He said that the Richmond seemed to be paddling ahead, straight across the river, trying to get in between the Sabine and the shore. This was at the time of the collision—i. e., at the moment of the collision. Both boats, said he, seemed to be trying to get in to the shore. He said he could not tell if the Richmond had stopped her engines or not.

Cross-examined:

992 I know the general character of the Richmond—that she is a large boat. I know the water was low for that season of the year —on the 10th February last. A boat of the class of the Richmond running Nine Mile Point would make a long crossing and fall in under Twelve Mile Point at that stage of the water. She would hardly straighten up, if they could see well, before getting three hundred yards under the point. The Richmond, when she straightened up, would not be closer to the shore than one hundred and fifty yards; that is, in the night.

Question. If a boat of the class of the Richmond, making the crossing from Nine Mile Point, was going at the rate of from ten to twelve miles an hour, holding the proper course for the crossing, what distance would she run before her head could be brought straight across the river?

Ans. If she was in the proper course for making her crossing, I don't think that she could run more than three or four lengths before she could be steered straight across the river. This could be accomplished sooner by stopping one wheel and backing. I have never been on a boat like the Richmond. It depends on which way the boat is swinging. If she is swinging in the direction she wants to go, it could be done quicker.

Question. In the case supposed, do you know of any means by which the head of the boat could have been brought straight across the river before she would go at least two lengths of herself?

Ans. If the boat was making her crossing and headed toward the shore to which she was crossing, by stopping one wheel and backing it, I think her course could be changed in two lengths. If a boat of the class of the Richmond is three hundred yards below the point, she would have to hold straight with the shape of the river; as she would get to the point her head would follow right around the point. They would have to keep the boat's head swinging to the point. In going around the point the boat has to keep the shape of the point. I have known Harrison, I think, about fifteen years. I have never known him to be a drinking man; I have known him to take a drink occasionally. I think he has been with me three different times. On the first boat he was on with me he made the whole trips. He has been in my employ about two or three months. It is not my general custom to caution my pilots to be careful in handling my boats; it depends on the pilots I

993 have on board. I have given these instructions to other pilots than Harrison—not frequently, though. The pilots I have on

board have been with me about four years, and I have confidence in their judgment. To those pilots that I don't know I occasionally caution to be very prudent. Don't remember that Ensminger said to me that the engines of the Sabine were backing or had stopped. Don't remember that this matter was spoken of at all. There was nothing said about the signal lights at all by Ensminger in that conversation that he had with me that I remember.

Cross-examined by Mr. COHEN:

I think the question was asked Ensminger whether it was the Richmond's fault that the collison occurred, and his reply was, I think, that he didn't want to say. He made no criticism about the movements of the Richmond further than I have stated, and that was that just as she struck she looked like she was headed for the Sabine. She looked like she was heading right across the river when she struck the Sabine; that both seemed to be trying to take the shore.

J. W. CARLTON.

Sworn to and subscribed before me, May 22, 1872.

CHAS. CLAIBORNE,
U. S. Commissioner.

994 *Testimony before United States Commissioner Loew, May 24, 1872.*

SARAH C. SHIRLEY ET AL.
versus
STEAMBOAT RICHMOND.

MERCHANTS' MUTUAL INSURANCE COMPANY et al.
versus
STEAMBOATS SABINE AND RICHMOND.

Messrs. Campbell, Billings & Hughes, for libellants; Messrs. Marr & Egan, for the Sabine; Mr. A. Voorhies, for the Merchants' Mutual Insurance Co.

JOHN V. JACK, sworn on behalf of the claimant of the Richmond.

Examined by Mr. CAMPBELL:

Question. Were you employed on board of the Richmond when the collision occurred between the Sabine and the Richmond?

Ans. I was.

Question. In what capacity?

Ans. As carpenter.

Question. Were you awake at the time the collision occurred?

Ans. No, sir, not quite. I cannot say that I was really awake.

Question. What was the first you knew of this collision?

Ans. The first that I knew of this collision—I was in bed at the time that I heard one whistle, and I got up then and sat in the bed there, for I did not feel contented on the boat, for I never ran on a low-
995 pressure boat before, and I did not know what it meant. I went out on the texas, and that moment the Sabine was lying on our larboard quarter.

Question. Had they struck at that time?

Ans. Yes, sir.

Question. They struck before you saw the boat?

Ans. Yes, sir; she was lying right at our side.

Question. You felt the shock?

Ans. Yes, sir.

Question. That made you get out?

Ans. Yes, sir.

Question. Which way were the boats headed at that time?

Ans. I could not say exactly with regard to that; I did not notice.

Question. Did you ever examine the Sabine after this accident occurred?

Ans. I did.

Question. State at what time.

Ans. It was at the foot of Thalia street, on the 24th of February.

Question. How long after she was raised?

Ans. The next day after she came down here.

Question. Did you examine the break carefully?

Ans. Yes, sir.

Question. And critically?

Ans. Yes, sir.

Question. Just describe it.

Ans. About five feet on the starboard side of the steamer Sabine, there seemed to be a mash quartering from the stem of the Sabine aft to larboard. This break took effect at about the two-foot water-mark, on the top of the wing kelson. From the top of the wing kelson down to the bottom of her keel everything was perfect and good. This break seemed to be all inclined, and it seemed to be leaning aft.

Question. How did it appear to you, judging from the break, that the blow was struck?

Ans. Why, it could not have been otherwise than a side blow. It could not have been head on.

Question. Do you mean to say that the stem of the Richmond did not come square into the Sabine?

Ans. I do.

Question. Then, how would you judge that the blow was struck, from your examination of the break?

Ans. I examined the stem of the Richmond, and found it driven out an inch and a half to the starboard side, and therefore a head lick could not drive the stem of the Richmond to the starboard.

Question. Judging from the break in the Sabine, how would you judge the blow was struck—from the aft forward or from forward aft?

Ans. The blow was a side blow.

996 Question. You do not understand me. Did the Richmond come into the boat head on, or did the boat flank against the bow of the Richmond?

Ans. My opinion is that the boat must have flanked against the Richmond. She never could have come head on, from the appearance of the blow.

Question. Which could not have come head on?

Ans. The Richmond could not have come head on—in the shape that she lay, and from the shape of the mash; otherwise it would have gone square.

Question. Look at the photographs marked 1, 2, and 3 (claimant of Richmond), and state whether or not they correctly represent the appearance of that boat as viewed from the different standpoints at the time you saw her. [Witness examines the photographs.]

Ans. Yes, sir; I should say that these are representations of the break at the time I examined it. I examined it closer than I could represent it myself.

Question. Was there any portion of the chock on the starboard side, near the bow of the Sabine, remaining?

Ans. Yes, sir; on the Sabine, about five feet, I think; I measured it.

Question. Was that chock displaced?

Ans. No, sir.

Question. If the Richmond had come into that boat head on (the Sabine), square into her, or quartering from forward, with her stem, state whether or not it would have disturbed that chock that you saw remaining on the Sabine.

Ans. She could not have come into her quartering and left that remaining there.

Question. Could she have come in square and left that part of the chock remaining there?

Ans. No, sir; not exactly square.

Question. Were the bottom planks of the Sabine cut by this blow?

Ans. Not below the knuckle kelson, which ranged below the two-foot mark.

Question. How were the planks immediately after the break?

Ans. Mashed in and bent over.

Question. Mashed in badly?

Ans. Yes, sir.

Question. Do you consider yourself an expert in these matters?

Ans. Well, I think I ought to be; I have had a good deal of experience in the business.

Question. How long have you been a ship carpenter?

Ans. About twenty-five years.

997 Question. And you have been engaged in that business nearly all that time?

Ans. During that time constantly.

Question. Did you examine the nigger engine in the Sabine?

Ans. I did.

Question. What was the size of that engine?

Ans. I have almost forgotten it, but I think it was a two-foot stroke by five-inch bore.

Question. State whether or not that engine could have stopped the Richmond had she been coming into the Sabine head on.

Ans. No, sir; it could not.

Question. Was the nigger engine broken by the blow?

Ans. I seen no part whatever broke of the engine.

Question. Was the cog about the capstan broke?

Ans. Yes, sir; there was one cog-wheel broke, and the bed of the capstan was broken; the capstan itself was perfect.

Question. That cog-wheel and capstan-bed, was it cast iron?

Ans. Yes, sir.

Question. State whether or not you could take a sledge hammer and break the cog-wheel and bed.

Ans. Well, I could very easily do that, and not use a very heavy sledge hammer either.

Question. State whether or not the Richmond has a very strong stem.

Ans. The Richmond has a very strong stem.

Question. Describe the stem-band—how it is fastened.

Ans. The stem-band is about three and a half or 4 inches wide.

Question. What is it made of?

Ans. Wrought iron.

Question. How thick is it?

Ans. It is about three inches thick, ovaling. It is not flat; it is of an oval form.

Question. How is it fastened?

Ans. It is fastened with bolts twenty-three inches long; $\frac{5}{8}$ iron, about a foot apart.

Question. How long is the stem-band?

Ans. The stem-band is about twenty feet. It is that at the shortest calculation. It may run over that. I think, probably, that it may run up further, because I put a long deck under her.

Question. How deep is the stem of the Richmand; what made of, and what is the size of it?

Ans. The stem of Richmond is sixteen inches in depth and twelve inches in thickness.

Question. What is it made of?

Ans. White oak.

998 Question. Solid?

Ans Yes, sir; and of the very best quality.

Question. You said the stem was displaced?

Ans. Yes, sir.

Question. How was it displaced; in what direction, and how much of it? Give a description.

Ans. It was driven to the starboa'd side about an inch and a half forward, and about three inches from the hooden ends.

Question. How could the lick have been struck so as to displace the stem?

Ans. It must have been a side blow, or it could not have driven it any other way.

Question. Was the nosing of the Richmond broken in, or any of the outriggers?

Ans. The nosing of the Richmond? Yes, sir.

Question. On which side?

Ans. On the larboard side, there was one stack knee broken down—one outrigger. The outrigger was 5 x 10 in the throat, and about forty feet of the larboard guard of the Richmond was broken down.

Question. Forty feet from where?

Ans. From the stem.

Question. The knee that was broken down, how was that broken down; in what direction was it broken?

Ans. It was broken right across by the side lick.

Question. Inboard or outboard?

Ans. Inboard. Broken right through the deck outrigger.

Question. Was that knee securely fastened, or not?

Ans. Yes, sir.

Question. How was it fastened?

Ans. By one bolt going right through the top; say an inch and a quarter bolt, and several drift bolts in $\frac{7}{8}$ iron.

Question. How were they secured?

By driving them through the knees into the solid chock; then these four screw bolts going through the entire chock.

Question. State, from your knowledge of that knee, whether or not it was possible for it to have been broken by the cotton falling from the decks of the Sabine upon it.

Ans. Well, I could not say with regard to that. Some blow—I cannot say what it was from—I cannot say it was from the cotton, but some blow from the outside. This knee was perfect.

Question. Was the hull of the Richmond affected by the blow?

Ans. Yes, sir; there was one plank broken in.

999 Question. Where was that plank?

Ans. That plank was about the sixth foot water-mark, and about three feet from the hooden end; that is, from the stem on the larboard side.

Question. Describe how that plank was broken in, and from what.

Ans. I could not say what it was that broke the plank. The plank was driven right square in between the timbers.

Question. Did you find any piece in there?

Ans. I did. It was so securely driven in there that it was water tight.

Question. How do you say it was driven in?

It was driven right square in between two timbers.

Question. From which way?

Ans. From the outer side.

Question. Was the blow that drove that timber in a blow from forward or aft, or square in from the side?

Ans. It must have been a side blow, because you could have driven in the plank by a forward or aft blow in that way. It had to go between the two timbers—the top timbers.

Cross-examined by Mr. MARR:

Question. When you were making the examination of the Sabine, did you notice the timbers?

Ans. I did.

Question. What sort of timbers were they?

Ans. The top timbers run from three to five and a half.

Question. Were they strong or weak, new or old?

Ans. Apparently new—to me.

Question. What kind of wood?

Ans. White oak.

Question. And of good quality?

Ans. Yes, sir; very good.

Question. Did you not see that some part of the Richmond must have gone in as far as the capstan of the Sabine?

Ans. No, sir; I could not say that it was some part of the Richmond that went in there.

Question. How did the capstan get knocked down?

Ans. My opinion is, from the upper works falling on the capstan—crushing it over.

Question. What fell from the outer works?

Ans. The cotton.

Question. What broke the nigger engine?

Ans. To my knowledge, it was not broke.

1000 Question. What broke the cog?

Ans. The tripping over of this capstan when it went over.

Question. Do you know that some part of the Richmond went in as far as the capstan?

Ans. No, sir.

Question. Do you know what broke the timbers of the Sabine?

Ans. No, sir; I could not say what broke them.

Question. Don't you know that some portion of the Richmond came in contact with the timbers of the Sabine, and broke them?

Ans. I could not say that it was.

Question. It was broken accidentally?

Ans. No, sir; I don't know, because I did not see the crash; but it must have been something.

Question. How do you imagine that the timbers of the Sabine were broken in, except by some part of the Richmond coming in contract with some portion of these timbers?

Ans. Something broke them; I do not know what, because I did not see the collision.

Question. How do you know that the cotton broke the capstan down?

Ans. How do I know?

Question. Yes.

Ans. From seeing it lying all over the capstan.

Question. Do you think that the cotton that was on the Sabine cut through the planks and through the guards up to the capstan?

Ans. No, sir.

Question. What do you think cut it?

Ans. I have no idea.

Question. What is the shape of the stem of the Richmond, and how far down is it straight?

Ans. There is no part of it straight. (Witness draws a diagram which he says is about the shape of the stem of the Richmond, as near as he can make it.)

Question. Don't you know, from the shape of the Richmond, that she could have cut into the capstan of the Sabine without the stem touching the bottom plank, or kelson of the Sabine?

Ans. No, sir; I don't think she could.

Question. How high did the guards of the Richmond stand out of the water that night?

Ans. I could not say as regards the height.

Question. How much water was she drawing that night?

Ans. Seven (7) feet forward.

Question. How much does she draw when loaded?

1001 Ans. I think she was drawing, this trip, nine and a half or ten feet. This was when the guards were touching the water.

Question. How high, then, does the forward part of the stem stand out of the water from the top of it?

Ans. Well, I should judge it would stand about three and a half or four feet when loaded to seven feet. Her stem would stand, I should judge, four feet.

Question. Which side of the Richmond was broken in, and on which side was the planking broken in?

Ans. The larboard side of the Richmond.

Question. When these boats struck together, which part of the Richmond came in contact with the Sabine?

Ans. The larboard side of the Richmond.

Question. That was the side broken in on the Richmond. What do you think broke the bed plate of the capstan of the Sabine?

Ans. Well, I have no idea of what broke it; something broke it, I know that, but I can't tell what it was. The supposition is it was a side blow from the Richmond.

Question. How could the side of the Richmond have touched the capstan of the Sabine?

Ans. Very easily, from the positions in which the boats lay, and from the appearance of the break.

Question. The larboard side of the Richmond lay towards what side of the Sabine?

Ans. The starboard side of the Sabine.

Question. Do you know any means by which the larboard side of the Richmond could have gotten in as far as the capstan of the Sabine?

Ans. Why, sir, the guards of the Richmond before the hull would have broke it, and would have swept the knee over, because the guards were some eight or nine feet wide.

Question. Would the guards have broken the hull planks of the Sabine?

Ans. No, sir.

Question. What broke the planks of the Sabine?

Ans. I don't know.

Question. You cannot imagine that?

Ans. No, sir; something must have broken it. If imagination is testimony, I imagine something broke it.

Question. You cannot, by any possibility, imagine that it was
1002 the stem of the Richmond?

Ans. No, sir; I could not say it was the stem of the Richmond.

Question. Where is this capstan bed situated on the Sabine?

Ans. It is situated about eight feet from the stem of the Sabine, in the centre of the boat.

Question. How far is it from the outer edge of the starboard guard of the Sabine?

Ans. The guard comes around it. Some places it measures greater than others.

Question. From the way that the cut went, or the way in which it was made, up to the capstan, how far is it?

Ans. I judge eight feet.

Question. Eight feet aft of the stem?

Ans. Yes, sir.

Question. The something that broke that bed plate had to go into the guards of the Sabine, through the hull timbers eight feet, in order to knock it down?

Ans. To reach the capstan? Yes, sir.

Question. What part of the Richmond could have reached it to have knocked it down?

Ans. My ideas are just these: the guards of the Richmond must have driven it down; no portion of the hull ever touched it, because before they broke it the Richmond's guards would have swept it off.

By Mr. VOORHIES:

Question. What was the whole width of the Sabine at that point?

Ans. I am not prepared to give you the exact width there, though I could come within a few feet of it. I think about twenty-three feet.

By Mr. MARR:

Question. Did not the capstan sit just in the middle?

Ans. That is the supposition.

Question. You examined it very closely, and did you not find it in the middle?

Ans. Well, I could not say exactly. I never seen the thing stand otherwise; but I did not measure it.

Question. How wide were the guards of the Richmond at the head?

1003 Ans. I should judge the guards of the Richmond was eight or nine feet, probably a little over; they are wider there than further aft.

Question. The stem of the Richmond came in contact with some part of the Sabine, didn't it?

Ans. I couldn't say that it did.

Question. What do you conjecture knocked the stem band of the Richmond over to the starboard?

Ans. I couldn't say what; something knocked it over during the night.

Question. Say what did it.

Ans. Of course the collision occurred, which we all know; but I was not up, nor did I see it. I could not say that the stem of the Sabine knocked the Richmond's stem over; I merely say it was knocked over.

Question. I want to ask you if you didn't know that the jackstaff of the Richmond was down?

Ans. No, sir; I didn't know anything of the kind.

Question. You do not know that it was not?

Ans. I know that it was not.

Question. Was the jackstaff of the Sabine down?

Ans. I could not see any jackstaff on it.

Question. You don't know whether it was up or down on the Sabine?

Ans. No, sir.

Question. Do you know whether the engines of a steamboat could give her sideway or headway motion? Does she go sideway or backway when you put the power upon her? How do you drive a boat sideways?

Ans. You can drive a boat sideways by stopping one engine and working the other.

Question. How do you give the stern-wheel boat sideway motion?

Ans. By backing the water against the rudders.

Question. How fast can you drive a boat sideways through the water, by backing her with the rudders—a stern-wheel boat—and how many miles per hour by any appliance?

Ans. Half a mile an hour by backing.

Question. I ask you if from the examination of the Sabine you could say whether the boat or object—you do not know what it was that injured the Sabine—but was or was not that body which inflicted that injury on the Sabine in motion, and that motion toward the centre of the Sabine?

Ans. I don't know exactly how to answer you that. I could not
1004 say that the injury which I saw on the Sabine was inflicted by a body which was in motion.

Question. Do you think that if the object, whatever it was, that inflicted the wound on the Sabine had been stationary that the Sabine could have been swung with sufficient force to have forced that object through the guards, up through hull timbers to the capstan, and broken the capstan bed-plate and broken the cogs of the nigger engine?

Ans. Yes, sir; I think it would.

Question. How would you give the Sabine that motion?

Ans. Just pile it up with strong power and let the Sabine drift sideways against a stone pier, and it will create as much damage as that is now on the Sabine. I have had this experience before, because I have mended them.

Question. On the outside of the Sabine, at the outer guard, how wide is that break in the guard?

Ans. In the guard it was about twenty-five feet, and in the hull it was about seventeen feet.

Question. How wide was the break up to the capstan; was this break wider on the outside edge of the guard or at the capstan?

Ans. Wider at the guard, sir.

Question. If it was any part of the Richmond which inflicted this

wound on the Sabine, was not that part which went into the capstan narrower than that part which only went up as far as the guard of the Sabine?

Ans. No, sir.

Question. How do you account for the fact that the break in the Sabine was narrower the further it went along the Sabine until it got up to the capstan?

Ans. My impression is just this: that the steamer Sabine was lying nearly across the river if not quite that way, and that would give the Richmond's bow a side blow, which would drive toward the centre of the boat; that would make it longer on the outside than on the inside.

Question. What part of the Richmond do you think got up as far as the capstan of the Sabine?

Ans. I think the guards of the Richmond got as far as the capstan; I think they *gat* over it.

Question. Would the guards of the Richmond have broken the hull timbers of the Sabine?

Ans. Yes, sir; the guards of the Richmond would have swept away the entire side of the Sabine.

Question. How far did the guards of the Richmond stand out of the water that night?

Ans. About four feet.

1005 Question. How high above the water did the guards of the Sabine stand that night?

Ans. I could not say; I never saw the Sabine until then.

Question. You think the guards of the Richmond done all the damage that was done to the Sabine?

Ans. No, sir.

Question. What part of the Richmond do you think done that damage to the capstan?

Ans. I think the guard of the Richmond did not do it.

Question. What part of the Richmond did it? You say you don't think the guards of the Richmond did it.

Ans. Something done it. If you will take it as evidence, we will say by the larboard side. It was by her larboard side that the Richmond done the crushing.

Question. You mean the broadside?

Ans. I mean the larboard quarter. I contend this was entirely a sidelick.

Question. From what you saw there, are you able to state whether the stem of the Richmond entered the Sabine at all, as a matter of opinion?

Ans. I should judge not.

Question. The stem did not enter at all?

Ans. No, sir; the side of the stem, of course, had to force its way down, if you come to that.

Question. I want to know if the stem of the Richmond went into the Sabine?

Ans. The side of the stem of the Richmond.

Question. How far could it go in?

Answer. A long ways.

Question. What is its length?

Answer. Twelve inches.

Question. Could the side of the stem go in eight feet?

Answer. No, sir.

Question. Well, then, the side of the stem did not go up to the capstan?

Answer. No, sir; I do not think it did.

Question. You do not think any part of the stem got up to the capstan?

Answer. The side of the stem and the forward part of the hull from the stem quartering aft.

Question. When one side of the stem went in, what became of the other side?

Answer. I don't know.

Question. I ask you now, if some part of the stem of the Richmond, from the force of that blow, did not go up as far as the capstan of the Sabine?

Answer. The side may have went up there, but no other part of it.

1006 Question. How wide is the stem of the Richmond?

Answer. Twelve inches.

Question. When the side of the stem, twelve inches in width, was up to the capstan, where was the other side of the stem?

Answer. Outside; it came in sideways; it did not go in forward.

Question. When one side of the stem of the Richmond went as far in as the capstan of the Sabine, where was the other side?

Answer. It is not for me to know; I was not looking at the other side.

Question. You cannot tell where one side of the stem of the Richmond, the side being twelve inches in width, went to? When it went as far as the capstan of the Sabine, where was the other side?

Answer. If it did not follow the other side, where could you put it?

Question. If one side of the stem of the Richmond was up as far as the capstan of the Sabine, how far from the capstan of the Sabine was the other side of the stem of the Richmond?

Answer. It must have been twelve inches, because it was twelve inches thick.

Question. The difference is that one side of the stem of the Richmond was up as far as the capstan of the Sabine, and the other side was up as far as the capstan, too, but not on the same side of the capstan; there could only have been twelve inches difference between one side of the stem of the Richmond and the other?

Ans. There could not.

Question. The stem of the Richmond must have been up as far as the capstan of the Sabine?

Ans. No, sir.

By Mr. VOORHIES:

Question. Was it a side blow that the Sabine received?

Ans. Yes, sir; I should judge it was a side blow, or nearly so.

Question. From the nature of the injury done to both boats, which boat do you think was in motion upon the other, and struck the blow?

Ans. I think that the Sabine drifted upon the larboard quarter of the Richmond. That is my opinion.

Question. Drifted upon it?

Ans. Yes, sir.

1007 Question. If it was a side blow, therefore, what was the position of the Richmond towards the Sabine at that time? Make it on paper.

Ans. I am not a draftsman.

Question. According to your idea, then, the two stems of the boats met?

Ans. No, sir; they did not meet.

By Mr. MARR:

Question. Do you know whether the knuckle-clamps of the Sabine were broken or not?

Ans. I did not see any part of the knuckle-clamps broken, or wing-kelsen.

Question. Well, now, if you knew that the knuckle-clamps of the Sabine were broken, could you say that the guards of the Richmond broke that?

Ans. No, sir; You could not get the guards of the Richmond down there.

Question. Don't you know that the Sabine, by some means or other, was cut down three feet below the water-line?

Ans. No, sir.

Question. Well, how far was she cut down?

Ans. To what you call the water line.

Question. The line of the water when she was afloat?

Ans. Well, that would make a difference of three or four feet between steamboats; it would depend upon what she was drawing at the time. Her water-line calls for twelve feet when she is light.

Question. Don't you know that she was cut down to a point three feet below the water?

Ans. I could not say so.

Question. Don't you know that she was cut below the water?

Ans. No, sir; I do not know what she loaded to at all. When the boat had her cargo discharged, she was not cut below the water. If the hull was cut three feet down on a line, it would be about four feet under the guards.

Question. What do you think could have cut the Sabine four feet under the guards?

Ans. I have no idea.

Question. Have you got an idea that it was possible for the guards of the Richmond, three or four feet out of the water, to have done it?

Ans. Well, I know the guards of the Richmond did not do it. I would not say what part of the Richmond done it, because I don't know anything about that.

1008 Question. Don't you know that it is impossible for the guards of the Richmond to have injured that part of the Sabine which was under the water, or come in contact with it?

Ans. Yes, sir.

Question. Was it not impossible for the guards of the Richmond, which came in contact, to come in contact with any part of the Sabine which was under the water?

Ans. It was not; and part of the Richmond's guards could have touched any part of the hull under water.

Question. Then you would have to force the guards of the Richmond under the water to meet any part of the Sabine under the water?

Ans. Yes, sir; undoubtedly.

Question. Well, was any part of the guards of the Richmond under water?

Ans. No, sir.

Question. Will you explain how any part of the Richmond injured any part of the Sabine that was under the water? How could any part

of the Richmond have injured that part of the Sabine that was under the water?

Ans. By a side blow.

Question. If the Richmond came in contact sideways, could the side of the Richmond have penetrated the side of the Sabine up to the capstan?

Ans. Yes, sir; clear through her; if that boat swung, it would have gone clear through.

By Mr. VOORHIES:

Question. From your observation of the injury to both boats, do you suppose that the Sabine was in motion and the Richmond was not?

Ans. My opinion is that the Sabine was drifting down the river, and that the Richmond was trying to get away from her.

Question. But do you think that the Richmond was in motion—going ahead?

Ans. No, sir; it could not have been going ahead, because when we struck the object we were going back—away from her.

Question. Where were you when the boat struck?

Ans. I was in bed.

Question. How do you know that the Richmond backed out when they struck?

Ans. The moment the boat struck I was standing in the hall
1009 door, on the larboard side of the Richmond, and the Richmond was going astern, and that boat was going ahead.

Question. At what speed would you judge the Sabine was drifting down upon the Richmond?

Ans. Well, I could not say.

Question. As a matter of opinion, can you say whether the Sabine was at great speed, or simply floating with the current?

Ans. My opinion is that she was going ahead and the Richmond going back; at what speed, I do not know—perhaps slowly; they were leaving one another.

By Mr. CAMPBELL:

Question. That is after the collision?

Ans. Yes, sir.

By Mr. VOORHIES:

Question. I ask you this question, whether before the collision, and at the moment of the boats meeting each other, the Sabine was in motion upon the Richmond, and the Richmond was not in motion; I want your opinion upon that point?

Ans. My opinion is that the Sabine was going ahead; I do not think she was ever stopped.

Question. How was the Richmond?

Ans. The Richmond was going astern; they were leaving one another.

Question. Whilst the Sabine was moving upon the Richmond and the Richmond was backing away, then took place this collision?

Ans. I could not say when the collision took place at all.

Question. Well, give us your opinion.

Ans. I don't know anything about that; the boats were lying there side by side when I came out; that's all.

By Mr. MARR:

Question. You don't know anything about whether any boat was in

motion, or, if in motion, which boat was in motion up to the moment of the collision?

Ans. No, sir.

1010 By Mr. EGAN:

Question. Where were you at the time of the collision?

Ans. I told you I was getting out of my bed to go to the texas door.

Question. And you did not see the collision?

Ans. I did not see the collision.

Question. Are you still in the employ of the Richmond?

Ans. I am.

Question. And have been since the collision?

Ans. Yes, sir.

Question. Do you know what a right angle is?

Ans. Well, slightly.

Question. What is it?

Ans. One parallel line with another. (!)

Question. Do you know what an acute angle is?

Ans. No, sir.

Question. Do you know what a triangle is?

Ans. Yes, sir.

Question. What is it?

Ans. A first rate thing for calling you to dinner.

Question. How long have you been a carpenter?

Ans. Twenty-five years.

Question. Where have you generally followed that occupation?

Ans. On the western waters.

Question. How long have you been on the Richmond?

Ans. Since the first day of February.

Question. Did the Richmond ever run into a bank since you have been on her?

Ans. No, sir.

Question. You were only on her seven or eight days before the collision?

Ans. I was on her, I believe, nine days and three-quarters.

The above testimony was signed.

JOHN V. JACK.

ROBERT D. COURTS, sworn on behalf of the Richmond, and examined by Mr. CAMPBELL:

Question. Were you employad on the Richmond at the time
1011 of the collision between the Sabine and the Richmond?

Ans. Yes, sir.

Question. In what capacity?

Ans. As mate.

Question. Are you on her now?

Ans. Yes, sir.

Question. In the same capacity?

Ans. Yes, sir.

Question. How long have you been mate on her?

Ans. A little over two years; I cannot say exactly.

Question. How long have you been a mate on the river?

Ans. About eighteen years.

Question. Do you know a deck-hand on the Richmond by the name of Michael Walsh?

Ans. Yes, sir; he was on her at the time of the collision.

Question. Did you ever have any conversation with Michael Walsh in relation to giving his testimony in this cause, on behalf of the Sabine?

Ans. Yes, sir.

Question. State what that conversation was, and where.

(Objected to by Mr. Marr, if it is sought to contradict the testimony of Michael Walshe, on the ground that there is no foundation laid for such contradiction, and because, even if allowed, it is only secondary evidence.

The same objection is entered by Mr. Voorhies.)

Question. State what Walsh said to you; what it was, and where it was.

Ans. He told me, in a house on the levee, that Mr. Conway keeps, called the Pavilion Exchange, that he had been offered a note of $50, with A. Conway's name to it, if he would come up here and swear on behalf of the Sabine; that is what he told me himself.

Question. Did he show you the note?

Ans. No, sir; I did not see it.

Question. When was this?

Ans. I suppose it was about two weeks—two weeks, I reckon—after the collision; I cannot tell exactly.

Question. Did he tell you whether he intended to accept that offer or not?

Ans. Yes, sir; he told me that he did not intend to accept it; he told me that he had been offered previous to this $5, by a man by the name of Brady Martin—a man that I don't know—but that he had been offered $5 to go up and give his testimony; that was before the note was offered to him; and when I asked him about this, he said he was
1012 not a man of that kind. As for Mr. Martin, or any man of his kind, he is an entire stranger to me.

Question. Were you present when the second mate of this boat (the Richmond), Mr. Davis, made a statement to me, in my office, of the facts of this collision?

Ans. Yes, sir.

(Objected to by Mr. Marr, if the object is to contradict the testimony of Mr. Davis, on the ground that no foundation has been laid, and if it is not for that purpose, the testimony is secondary and hearsay.

Mr. Voorhies enters the same objection.)

Question. Do you remember where Mr. Davis said he was at the time the collision took place?

Ans. Yes, sir.

Question. Where was it?

Ans. He was in his room; he said that he was just going to bed, and pulled off one boot, and went forward in that condition on the sky-light until he saw Capt. Green on the sky-light forward of his room.

Question. You remember distinctly about his saying that he saw Capt. Green standing on the sky-light in front of his room?

Ans. Yes, sir; and he went back in his room and put the other boot on; about that time the collision took place.

Question. Tell all you know about this matter, from the time the boat left the elevator that night; what time it was she left; how, and whether the cargo was stowed on her, and all about it.

Ans. We left the elevator about half past one o'clock that night, and after we left there some little time there came up a severe wind and rain; the rain lasted, perhaps, ten minutes; after we got the freight

covered up the wind continued to blow until along in the next day; it blew very hard all the time; I went back on the roof.

Question. What time?

Ans. Well, I suppose it was after two; I cannot say, because I did not look at my watch; I was going down stairs and met the second mate, and told him to go to bed, so he started to go; he looked sleepy enough; I got down into the office to get my overcoat, and came out on the boiler-deck and heard the whistle blow. I forgot to state that while I was on the roof the whistle blew one time, before I went down stairs.

Question. What was that whistle blown for?

1013 Ans. I could not say, I did not see anything in sight; I went down stairs and got my coat, and as soon as I came out on the boiler deck the whistle blew again; only one whistle; I started up the steps forward, and before I got up on the roof, I heard the bell to stop and back, and at that time I saw this light, but I did not know there was any danger at that time; after he rang his bell to back I saw a boat coming down which appeared to be going into our larboard or getting in the middle of the river, off from us; after he had rung the bell to stop and back, he blew his whistle again, which was crossed; he blew one whistle and she blew two; from the appearance of the boat at that time—she was so covered up with cotton that a man could not tell how she was lying until she got pretty close—I hallooed to somebody on that boat to stop that boat.

Question. Hallooed to whom?

Ans. To somebody on the Sabine; I hallooed to no particular man; but I asked them to stop the boat.

Question. Did you get any reply?

Ans. No, sir; not that I know of; I did not hear any. Captain Green, at the same time, I saw him forward of the texas, talking with the pilot, and he asked him if he was backing on both wheels.

Question. How long after you heard the whistle of the Richmond, which you say you heard as you came out of the cabin-hall, before you went up the steps?

Ans. Well, immediately.

Question. Did you go immediately on to the roof then?

Ans. Yes, sir.

Question. Where are the steps that go on to the roof of the Richmond?

Ans. Right forward of the hall.

Question. When you got up there, on top of the roof, you say you then saw this boat come down, which afterwards proved to be the Sabine?

Ans. Yes, sir.

Question. How far off did the Sabine appear to be then, at the time you got to the top of the roof?

Ans. I could not tell, it was a very dark night, but I suppose she must have been two hundred yards off; I could not exactly tell; it is pretty difficult for a man to tell in a dark night. She might have been that, or less.

Question. Did you hear any whistle from the Sabine, before going up on the roof?

Ans. Well, I must say that I heard a whistle, but I could not
1014 tell whether it was two or one, or whether it was from the Sabine or not; the wind was blowing very hard.

Question. That was before you went on the roof?

Ans. Yes, sir.

Question. Well, after you got to the roof, did your boat whistle again?

Ans. Yes, sir.

Question. One whistle?

Ans. Yes, sir.

Question. Was that whistle replied to?

Ans. Yes, sir; the Richmond blew one whistle and the Sabine blew two.

Question. Which way was the Richmond heading at that time, when you started down stairs to get your overcoat?

Ans. She was going up the shore.

Question. Which shore?

Ans. I suppose the right-hand shore; under the Twelve Mile Point; the right-hand shore going up.

Question. How far was she from the shore when you started to get your overcoat?

Ans. Well, at the time that she blowed the first whistle, I could not tell how far off she was; she had just the time that it took me to go down stairs, or after we left Nine-Mile Point, or below the white buildings there; she got two-thirds over the river.

Question. Making a crossing?

Ans. Yes, sir; at the time I left the roof I did not see anything in sight.

Question. When you came back on top of the roof, which way was the Richmond heading then?

Ans. She was headed up stream.

Question. How far from the shore?

Ans. Well, as near as I could tell, I suppose about a hundred yards, or as near as the shore was in sight.

Question. She was running up the shore?

Ans. Yes, sir.

Question. Under Twelve Mile Point?

Ans. Yes, sir.

Question. Which way was the Sabine heading when the Richmond blew her last whistle?

Ans. She was headed, as near as I could tell—but she was covered with cotton so much that I could not tell; but I saw her signal lights nearly across the river.

Question. Which way was the Sabine's bow pointing?

Ans. To the right-hand shore; I think they call it the western shore.

Question. Under Twelve Mile Point?

Ans. Yes, sir.

Question. How far off were the boats when the last whistle of the Richmond was blown?

Ans. They might have been a hundred yards, more or less; I could not tell; it is very hard.

1015 Question. How far from shore was it when this collision occurred?

Ans. I suppose it should be about a hundred yards, more or less; from what I saw afterwards when working after the boat sunk, I do not think it was over a hundred yards.

Question. How far below the bite of Twelve Mile Point was it?

Ans. Well, I cannot tell where you call that; in our trade I suppose it is what they call a mile; I cannot tell what they call the point.

Question. A mile below what?

Ans. Well, there is a point up there.

Question. A mile below what point?

Ans. Well, I cannot state whether it was a quarter of a mile or half a mile around; I did not suppose we were over three-quarters of a mile.

Question. Which way was the Richmond headed when the Sabine struck her?

Ans. Towards the shore.

Question. Do you know whether the Richmond was backing at the time or not?

Ans. Yes, sir.

Question. Was she backing or not?

Ans. She was backing; I suppose she was; I could not tell, because she is a low-pressure boat; but I heard gongs ring to back her.

Question. Did you notice the water from the wheels?

Ans. I did not.

Question. Did you notice the Richmond's signal lights?

Ans. Yes, sir.

Question. State whether or not they were burning; and, if so, how?

Ans. Both were burning.

Question. Were they burning brightly or dimly?

Ans. Brightly.

Question. And in their proper places?

Ans. Yes, sir.

Question. This was at the time of the collision?

Ans. Well, after the collision, I saw the lights were burning, but I did not notice it before; about two minutes after the collision I saw them.

Question. When you went up on the hurricane roof from down stairs, did you see Captain Green at that time?

Ans. Yes, sir.

Question. When you got on the deck, did you see him?

Ans. Yes, sir.

Question. Where was he?

Ans. Nearly half way between the bell and his room.

1016 Question. How was he dressed?

Ans. He was dressed, I think, in his night clothes.

Question. Do you know what way the wind was blowing that night?

Ans. Toward the right hand shore; I noticed yesterday, as we came down, that that was on the south, and I wanted to know what side it was blowing that night; it must have been blowing from the south and to the right hand shore.

Question. Was it blowing hard that night?

Ans. It was blowing pretty hard.

Cross-examined by Mr. VOORHIES:

Question. How far was the Sabine the first time you saw her?

Ans. It would be a hard matter to tell that exactly; I suppose she was from a quarter to half a mile off.

Question. That was the first time you saw her?

Ans. Yes.

Question. How far were you from Twelve Mile Point when you gave your first signal to the Sabine?

Ans. I cannot tell what they call the point—may be from quarter to half a mile difference—that is what I call the point; somebody else might not call it the point; but I would say, perhaps half a mile.

Question. When you first saw the Sabine, was it before she rounded Twelve Mile Point, or after she had rounded it?

Ans. She was coming around the point; there is a bank there that is very low, but I could not tell whether she was coming around the point

or not; I suppose she was coming round the point at the time I saw her.

Question. When you first saw the Sabine distinctly, how far was she from the left shore?

Ans. I do not know.

Question. Was she near the left shore or near the middle of the stream?

Ans. She was near the right hand shore going up; I do not know which is the east or the west.

Question. She was nearer the shore on the right hand side going up, when you first saw her?

Ans. Yes, sir, when I first saw her distinctly.

Question. When you gave the first signal, were you in the middle of the stream?

Ans. When we gave the first signal, we were about the middle of the stream, or nearly over to the right hand shore.

1017 Question. And when you gave the signal did you see the Sabine rounding the point near the shore?

Ans. No, sir; I did not see her at all at the first signal.

Question. Well, when you gave the second signal, did you see the Sabine near the east shore, rounding the point?

Ans. I could not tell which is the east shore.

Question. The right-hand shore going up.

Ans. When I saw the Sabine first she appeared to be coming down to our larboard—down the middle of the river; we thought she was going down on our larboard side.

Question. Did you afterwards see the Sabine change her course and take the right-hand shore going up?

Ans. Yes, sir; of course she changed when they came together.

Question. But I ask you did you notice that she was going towards the shore?

Ans. Yes, sir.

Question. What distance were you from her when you noticed that she was going towards the shore, and had changed her course?

Ans. Not over fifty yards, I don't believe, as near as I can tell.

Question. Did you state what distance they were when the first signal was given—one boat from the other?

Ans. There was one signal that was given that I did not look out, and did not see how they were.

Question. What interval was there between the first and second signal?

Ans. Well, not paying much attention then, there might have been two minutes, or three minutes—perhaps only one.

Question. What interval was there between the second and third signal?

Ans. Not over a minute and a half or two minutes.

Question. At what speed was the Richmond running?

Ans. About (10) ten miles an hour.

Question. When you saw the Sabine changing her course, and going towards the right-hand shore, going up, why was it that your boat went on on a straight line towards the shore, crossing the stream?

Ans. Our boat did not cross the stream. At the time of the collision we were headed towards the right-hand shore. I suppose, from the appearance of things that I saw, that if we tried to get at the other side, she would have hit us on the starboard, instead of the larboard side.

1018 Question. Where were you at the time the collision took place?
Ans. On the hurricane deck.
Question. Was the Richmond motionless or backing when the collision took place?
Ans. The gongs had rung to back.
Question. I ask you whether the boat itself was motionless or going back?
Ans. I think she was on a stand, as you call it, with her headway checked.
Question. What was the position of the Richmond towards the Sabine at the moment one boat struck the other?
Ans. Well, the Richmond was quartering towards the shore—a little quartering—and the Sabine was about straight across the river at the time they struck, as near as I can tell.
Question. Did not the two boats, at the moment of collision, have their stems in the same direction and form an acute angle?
Ans. No, sir; I don't think they did.
Question. Did the Richmond and Sabine meet at right angles?
Ans. Not exactly. I do not think so; that is as near as I can tell. They might.
Question. How near right angles was it that they met each other?
Ans. I could not tell exactly. I suppose it was very near right angles. It is hard for a man to make that calculation.
Question. As you were standing on the deck, if you saw the Sabine in this direction, and you were quartering to the shore, I want to know if you noticed the two boats at the same time, and what was their position?
Ans. I suppose it was very near right angles when they hit, and then, of course, the Sabine flanked down after she met us and brought the stems together, and made it more than a right angle.
Question. What boat swung on the other, was it the Sabine or the Richmond?
Ans. The Sabine.
Question. Did any part of the Richmond run on or enter the hull of the Sabine?
Ans. Yes, sir.
Question. To what extent, and how far below the water mark?
Ans. Well, I suppose where the mash was it was about eighteen inches below the water-mark.
Question. How deep towards the capstan did the Richmond enter?
(Objected to by Mr. Campbell, on the ground that the counsel
1019 has no right to go into matters on the cross-examination not inquired into in the examination-in-chief.)
Question. Did the Richmond penetrate into the Sabine as far as the capstan, or did the Sabine run into the Richmond as far as the capstan?
Ans. The Sabine appeared to make a landing right against the stem of the Richmond.
Question. But how far did one penetrate into the other?
Ans. Well, it mashed her side in. I could not say how far it was.
Question. But did not the Richmond enter up to the capstan at an acute angle?
Ans. I did not look.
Question. Did you see the Sabine afterwards at the wharf?
Ans. Yes, sir.
Question. Did you ascertain that there was a cut that went through the capstan there?

Ans. I looked at her, but I did not notice.

Question. When the collision occurred, did you notice whether the cotton fell from the top of the Sabine—from the front part?

Ans. Yes, sir.

Question. At the time it fell, or afterwards?

Ans. At the time it fell.

Question. When the boats parted, what boat got off from the other, and when was it? Was it the Richmond from the Sabine, or the Sabine from the Richmond?

Ans. Immediately after they struck the Richmond went back, and the Sabine went past us, right into the shore.

Question. When the Sabine parted from you, did you raise steam and make the wheels go so as to get to the shore?

Ans. I don't know.

Question. Was the Sabine working her engine when you parted with her, when she went ashore?

Ans. I could not tell you that.

Examined by Mr. MARR:

Question. Your boat gave three signals, did she?

Ans. She blew three signals altogether.

Question. And you distinctly heard it from the Sabine?

Ans. The last time I did; just before the collision I heard it.

Question. Did you hear any signal from the Sabine until just
1020 before the collision?

Ans. I heard a whistle. There was one whistle blown that I did not know what it was blown for, and the next time there was two whistles, and then I saw this boat coming down.

Question. Did you hear her blow?

Ans. I heard the whistle, but the wind was blowing so very hard that I could not say whether it was one or two.

Question. And then, just before the collision, you heard another signal from her of two whistles?

Ans. Yes, sir; before the collision I heard another whistle.

Question. Do you know how the stem of the Richmond happened to be injured?

Ans. It could be injured by a lick from something harder than it was.

Question. Did you not know enough to see that the stem of the Richmond went in as far as the capstan of the Sabine?

Ans. No, sir; I did not.

Question. You did not see that much?

Ans. No, sir.

Question. Did you see the stem of the Richmond strike any part of the Sabine?

Ans. Yes, sir.

Question. What part of the Sabine did the stem of the Richmond strike?

Ans. About six feet; it is about six or seven feet from the stem of the Sabine that they came together, and mashed her about six or seven feet from the stem.

Question. How far did the stem of the Richmond penetrate into the Sabine?

Ans. Well, it did not penetrate at all much; just got a side mash.

Question. What do you think broke the timbers of the Sabine and knocked down the timbers of it?

Ans. I suppose it was a hard landing.

Question. But you do not think the stem of the Richmond got up as far as the capstan?

Ans. What capstan?

Question. The capstan of the Sabine.

Ans. I don't think she did.

Question. What do you think knocked the capstan down?

Ans. I do not know it was knocked down.

Question. What do you think broke the planks of the Sabine?

Ans. Well, it is very easy to tell what broke the planks of the Sabine.

Question. I want you to tell what broke the planks of the
1021 Sabine, and her hull, and her deck planks, up to the capstan?

Ans. I suppose the stem of the Richmond done it.

Question. Well, if the stem of the Richmond broke these planks, the stem of the Richmond must have got there?

Ans. Well, I don't know; I am not a carpenter, and don't know.

Question. Do you think the stem of the Richmond broke any further than it went in?

Ans. I don't know.

Question. Did you not examine the shape of the blow in the Sabine?

Ans. Not very much.

Question. Did you examine it so as to say that it grows wider as it goes in and gets narrower towards the ends?

Ans. Well, I didn't see any such model.

Question. Is not the break on the Sabine wider on the outside and narrowing up as it goes?

Ans. I did not see the break in that light.

Question. I ask you if you do not know that the break on the Sabine is wider on the outside, and that it is narrower until it gets to the capstan, where it ends?

Ans. I am not positive about that; it might or might not; I am not positive.

Question. Whose watch was it at the time of this collision?

Ans. It was mine.

Question. How far do you think you were above Nine Mile Point when this collision occurred?

Ans. Well, that is a pretty hard question for me to answer. Above Nine Mile Point when the collision occurred?

Question. Yes.

Ans. If it is a place you can see on the water in daylight, I suppose it would be three miles; I do not know; I may be wrong; but to the best of my opinion.

Question. Which side of the Sabine got the blow?

Ans. The starboard side.

Question. When you swung together, which side of the two boats came together after the collision?

Ans. The starboard side of the Sabine, as soon as they came together, and the larboard side of the Richmond.

Question. At the moment of the collision you say that the Richmond was pointed to the right hand shore, going up?

Ans. Yes, sir.

Question. How far was she from that shore at the moment of collision?

Ans. I suppose she was a hundred yards, more or less.

1022 Question. Was the Sabine between you and that shore, or on the other side?

Ans. She was on our larboard.

Question. When you were standing out on the boiler deck, and heard the second whistle of the Richmond, had you then heard any engine bells ring on the Richmond?

Ans. Not until after that.

Question. Where were you when you heard the engine bells ring?

Ans. On the boiler deck, at the foot of the steps.

Question. What bell did you hear ring?

Ans. The stopping bell.

Question. What bell should have been rung, and how many of them?

Ans. They rang the stopping bell on both sides, and the gong on both sides.

Question. Are you certain that you heard all these bells?

Ans. Of course I heard them, or I would not tell you so.

Question. Then what bells did you hear after that—you heard both the stopping bells and then the gong?

Ans. Yes, sir.

Question. What other bells did you hear after that on your boat?

Ans. I did not hear any bells until after the collision occurred, that I know of.

Question. Then what bells did you hear after the collision?

Ans. I could not tell you about that, because I had too much to attend to.

Question. You did not hear any after the collision?

Ans. No, sir; I could not say that I did; I might have heard them and might not; I do not know exactly; I was not keeping account of the bells.

Question. Now, on your boat, when you ring the stopping bell and gong, what does that mean?

Ans. To back her.

Question. The gong means to back her?

Ans. Yes, sir; since I have been on her.

Question. How many gongs have you got?

Ans. Two.

Question. Two gongs?

Ans. Two engine gongs.

Question. One for the larboard and one for the starboard engine?

Ans. Yes, sir.

Question. Then you have got a stopping bell at each engine and a gong at each engine?

Ans. Yes, sir.

Question. You heard the stopping bell at each engine ring, and the gong at each engine ring?

Ans. Yes, sir.

1023 Question. At that time you were at the foot of the steps?

Ans. Yes, sir; on my way up.

Question. Then you went on the hurricane deck?

Ans. Yes, sir.

Question. And after you got on the hurricane roof you heard another whistle from your boat?

Ans. Yes, sir.

Question. When you got on the hurricane roof, how far were the boats apart?

Ans. Well, I suppose, maybe fifty or seventy-five yards, more or less.

Question. Then you have no idea of nearly how far the boats were apart?

Ans. I have no means of telling except when they collided.

Question. How long did it take them to collide after you got up there?

Ans. Well, it might have been over a minute and a half, maybe not that much; maybe it was more than two.

Question. How long do you think it was from the time you went down when you heard the first whistle until you got back to the foot of the steps when you heard the second whistle?

Ans. Well, I don't know; maybe two or three minutes.

Question. You went down to get your overcoat?

Ans. Yes, sir.

Question. Where is your room on the Richmond?

Ans. In the texas.

Question. The texas is not on the boiler deck?

Ans. No, sir.

Question. What were you doing on the boiler deck?

Ans. I went down there to get my coat.

Question. Your room is in the texas?

Ans. Yes, sir.

Question. Where was your coat?

Ans. In the office.

Question. How came you to leave your coat in the office, when your room is in the texas?

Ans. I don't know how it came to be there; I leave my coat in a great many places, and I left my coat in the office that night.

Question. Did you take a seat in the cabin or hall of the Richmond when you went down?

Ans. No, sir.

Question. Did you stop and have any conversation with the clerks when you went down?

Ans. I talked a minute to Capt. McCord when I went down; I do not know what I said; it amounted to nothing.

Question. Is it your habit to keep your clothes outside of your room on board the boat?

1024 Ans. Yes, sir; I kept one there the other day and somebody stole it.

Question. I ask you, is it your habit?

Ans. Yes, sir; I often take my coat off and throw it anywhere.

Question. Was that a cold night when you left the elevator?

Ans. Well, it was not so cold, but it was a little wet.

Question. And it was your watch?

Ans. Yes, sir.

Question. How long after you left the elevator did the rain spring up?

Ans. Almost immediately after we got up the river.

Question. What time did you leave the coat in the clerk's office; was it before you went to the elevator?

Ans. I do not know; I could not tell you when the coat was left there; maybe while they were taking on iron.

Question. It was a wet night; the wind was blowing, and not a very warm night; now, would not a man standing on the watch of a steamboat want his coat?

Ans. Yes, sir; and that is what I went after it for.

Question. How long had it taken you to run from the elevator up to the place where you went for your coat?

Ans. I could not tell you how long it would take; we had freight to cover up, and the watches to set, and regulate the boat's crew.

Question. Did you attend to covering up the freight?
Ans. Yes, sir.
Question. Did you attend to setting the watches?
Ans. Yes, sir.
Question. Where did you set the watch?
Ans. We set the watch before we came there, after we got the freight covered up.
Question. How far was it from the elevator to the place where you went to get your coat?
Ans. I could not say.
Question. How long did it take you to get there?
Ans. I don't know.
Question. You were exposed to the weather all the time, from the time you left the elevator until the time you went for your overcoat?
Ans. I did not have the overcoat.
Question. I want to know if you were exposed?
Ans. Well, a man would not stand out in the rain if he could get shelter.
Question. I want to know what part of the boat you were in, whether you were exposed to the weather all the time until you
1025 went to get your overcoat?
Ans. Well, I was not wet through.
Question. I want to know whether you were exposed to the weather or not?
Ans. I was exposed at times, more or less.
Question. Did it rain pretty hard?
Ans. Yes, sir.
Question. You knew when you left the elevator you would have to stand watch until when?
Ans. Until breakfast.
Question. It was a wet and rainy night, and you had not thought of your overcoat until a short time (when you went down) before this collision?
Ans. Yes, sir.
Question. When you heard the whistle on the hurricane deck, did you look round to see if there was any boat in sight?
Ans. Which whistle do you mean?
Question. Any whistle; you heard one just about the time that you started down for your overcoat?
Ans. I did, but I did not see any boat.
Question. If there had been any boat in view, could you have seen her lights?
Ans. Well, I don't know whether I could or not; I do not know the shape of that point.
Question. Did you not know whether it was your watch on the boat, and that it was your duty to look out and perform your duty?
Ans. Yes, sir.
Question. Did you look out?
Ans. Yes, sir.
Question. Did you know what the boat was whistling for?
Ans. No, sir.
Question. Did you look around to see?
Ans. Yes, sir.
Question. How many red lights did the Richmond carry?
Ans. She carries, now, one.

Question. When this collision occurred, how many red lights did she carry?

Ans. She had a light amidships, but I cannot say what lights they were; that was my first trip on the boat, as mate.

Question. Don't you know that at the time this collision occurred, that the Richmond carried a light on her staff, aft of the texas?

Ans. Yes, sir.

Question. How high above the deck was that light elevated?

Ans. Well, I could hardly tell you that; I suppose thirty or forty feet above.

1026 By Mr. CAMPBELL:

Question. What deck do you mean?

Ans. The hurricane deck.

By Mr. MARR:

Question. I mean on the deck upon which the staff rested; I want to know its height above the hurricane roof?

Ans. I said about thirty or forty feet.

Question. How high are the chimneys of the Richmond above the hurricane deck?

Ans. I could not tell you.

Question. Thirty or forty feet?

Ans. Yes, sir; a good deal more than that; I have no idea.

Question. You saw the light that night?

Ans. Yes, sir.

Question. Can you tell us now whether it was a light of plain glass or stained glass, or whether it was a lantern colored by some colored material?

Ans. Well, when I saw the lights, I was getting out the line to the Sabine, but I could not tell you whether it was a torch *or* a lamp; I saw the light there, but it did not interest me very much.

Question. Did you never, at any time during your stay on the Richmond, notice that light?

Ans. We never had that light ever since.

Question. Since that night?

Ans. Since that night.

Question. It has been taken down?

Ans. Well, we did not put it up after that.

Question. You have quit carrying that light aft the texas?

Ans. Well, I think we have; I am not positive, but I think we have.

Question. At any time that night did you pass aft of the texas, along the hurricane roof?

Ans. No, sir.

Question. Were you in a position that night, at any time, to see that light on the staff, aft the texas?

Ans. Yes, sir.

Question. Did you not see it that night?

Ans. Well, I saw the light there, but I could not swear to the color.

Question. Can you tell whether it was a colored light or not?

Ans. No, sir.

1027 Question. How did that light compare with the light on the chimney?

Ans. About the same size, as near as I can tell; I just noticed it from a glance; I did not pay much attention, for if I had I could have told you the color.

Question. Don't you know that the lanterns were about the same size—the lantern that hung on the staff and the others?

Ans. I suppose so; may be there might be one larger or smaller; I have never seen the lamp since.

By Mr. EGAN:

Question. Are you still in the employ of the Richmond?

Ans. Yes, sir.

Question. Were you lying alongside of the Sabine for nearly a month after both boats came to port?

Ans. We lay there some time.

Question. You saw the break in the Sabine all the time?

Ans. I saw it as I passed by, but seldom went up there after the collision; I did not go up more than once or twice.

Question. What company did you work for; the company the Richmond belonged to?

Ans. Yes, sir; the St. Louis and New Orleans Packet Company.

Question. You were on the Sabine repeatedly after she came here?

Ans. Never but once, and that was the morning she came up; then I was in a big hurry, and paid very little attention.

Question. What were you doing from the time the boat left the elevator until the collision?

Ans. I was straightening up and covering the freight after the rain; it was raining while I was setting the watches, and that occupied nearly the whole time.

Question. When did you come on the watch?

Ans. At one o'clock.

Question. Was that before or after you left the elevator?

Ans. We left at half-past one, and I came out at one.

Question. Where were you when the Richmond blew her first whistle?

Ans. I was on the hurricane deck, a little forward of the chimneys, on my way down stairs; that was the first whistle I heard.

Question. What were you doing there?

Ans. Doing nothing but going down stairs.

1028 Question. How long had you been there?

Ans. I had not been there any time at all, but was just going down stairs.

Question. Where were you before you got there; where did you come from?

Ans. I came from the forward part of the hurricane deck, and stopped in the texas as I came by, and met the second mate, and went down stairs.

Question. Did you stop on your way?

Ans. No, sir; not that I know of.

Question. Where did you go?

Ans. I went into the office.

Question. How long were you there?

Ans. I was no longer than to pick up my coat, as far as I can recollect.

Question. You stopped to talk with some one, didn't you?

Ans. I stopped and talked with Captain McCord.

Question. Were you talking to him when you heard another whistle?

Ans. No, sir; there was nobody with me when I heard the other whistle.

Question. What were you doing when you heard it?

Ans. Doing nothing.

Question. Were you walking?

Ans. I could not say whether I was or not.

Question. Were you sitting down?

Ans. No, sir; I had my coat on my arm, and could not say whether I stopped or whether I was walking.

Question. Where were you when you heard that whistle?

Ans. Outside the hall door, out on the boiler deck.

Question. But you could not say what you were doing at the time?

Ans. I was doing nothing.

Question. What boat blew that whistle?

Ans. The Richmond blew the first whistle I heard.

Question. What did you do then?

Ans. I did not do anything; I was on my way to the hurricane deck, with my coat on my arm; I did not put my coat on.

Question. What did you do when you got to the hurricane deck?

Ans. I just stood there, and saw them take it—which was the hardest.

Question. Did you look to see how the shores were?

Ans. Yes, sir.

Question. What object did you see?

Ans. I saw the willows very plain; they are to be seen very plain through the point.

1029 Question. Was that before or after the collision occurred?

Ans. Before and after, both.

Question. Were you running for the willows?

Ans. No, sir; we were running up the shore before the collision. After the collision we were heading towards the shore.

Question. Did you hear any whistle that your boat gave on the hurricane roof?

Ans. Yes, sir; I heard one distinct whistle.

Question. What boat did that come from?

Ans. One from the Richmond and two from the Sabine.

Question. On what part of the hurricane roof were you then?

Ans. I was forward of the skylight. I could not tell exactly how far, but some eight or ten feet.

Question. What were you doing?

Ans. I was doing nothing there.

Question. How long had you been there when you heard that second whistle?

Ans. Two or three seconds.

Question. What did you see there?

Ans. I saw the Sabine, or what proved to be the Sabine afterwards.

Question. What part of her did you see?

Ans. It was pretty hard to tell; she was all covered up by the cotton.

Question. Did you see any signal lights on her?

Ans. Yes, sir.

Question. Did you see both lights?

Ans. Yes, sir; that was the only way I could tell where it was.

Question. Who was on the roof of the Richmond when you went down to get your overcoat?

Ans. I was there; that is the only one I know of except the second mate. I met him, and the mate went to bed.

Question. How could you be on the roof when you went down to get your overcoat?

Ans. I had to leave the roof to get my overcoat, and after I left I could not be there of course.

Question. Did you leave any one there when you went away?

Ans. No, sir; I did not leave any one that I know of. A watchman might have been there. I suppose perhaps he was.

Question. When you returned on the roof, did you see any one on it?

Ans. What time?

Question. When you returned with your overcoat.

Ans. I did not take my overcoat on the roof.

1030 Question. You did not?

Ans. No, sir; never said so. I saw Captain Green.

Question. Did you bring your overcoat when you came up after you went down to get it?

Ans. No, sir.

Question. You did not bring it up?

Ans. No, sir.

Question. Where did you bring it?

Ans. Sharp to, on the boiler deck.

Question. Had you any conversation with Captain Green when you saw him up there?

Ans. No, sir.

Question. Was he up there before you?

Ans. Yes, sir; he was up there before I went up.

Question. Where was he when you came up?

Ans. He was standing half way between the bell and his room.

Question. Was he forward of the texas?

Ans. Yes, sir.

Question. How long was this before the collision occurred?

Ans. It might have been over two minutes.

Question. How many miles does the Richmond run in three minutes?

Ans. I could not say. You ask me; but I am giving you as near as I can. How far would she run in three minutes I don't know.

Question. Do you know how many minutes it would take the Richmond to run a mile?

Ans. It depends a good deal upon the stage of the water.

Question. About how many minutes?

Ans. Well, I could not tell you. I never came down that close. I could not tell. I have no idea.

Question. If she was running ten miles an hour, how many minutes would it take to run one?

Ans. Six.

Question. Were the boats coming together when you saw Captain Green on the roof?

Ans. No, sir; I don't think they were. They might have been coming up. The first time I saw the boat I did not think there was any danger.

Question. Where were you when you first saw the Sabine?

Ans. I was on the boiler deck.

Question. Had the Richmond rung any bells when you first saw the Sabine?

Ans. No, sir; when first I saw her.

Question. Where were you when the Richmond first rang her bells?

Ans. At the foot of the steps, as near as I can recollect.

1031 Question. What bells did she ring?

Ans. The stopping bells and the gongs. That, of course, meant backing.

Question. How many bells has the Richmond?

Ans. She has got two; one on each engine.

Question. Where are these bells?

Ans. Hanging over the engines.
Question. About what distance were they from where you were?
Ans. I don't know. I did not measure that.
Question. About how far—one hundred and fifty feet?
Ans. Maybe it is.
Question. They were in the engine room?
Ans. Yes, sir.
Q. How could you hear them bells from the position you occupied, it being a windy night?
Ans. Yes, sir; if you could not hear them they would have been no use there; the pilot has to hear them.
Question. How can you say the pilot has to hear them?
Ans. From my experience, being on the river twenty-five years, I noticed these things.
Question. Did you notice that the pilot hears the engine bells?
Ans. He has to hear them.
Question. Does he hear them?
Ans. Well, if he does not, he has got to get bells big enough that he will hear.
Question. Is he bound to hear them?
Ans. I don't know anything about that; they generally hear them, though.
Question. Have you ever had any experience in piloting?
(Mr. Campbell objects to any question being put to the witness in relation to any matter that is not germain to the examination in chief on the cross-examination.)
Ans. I have never served my time at it. I have steered more or less.
Question. Were you ever on the Richmond before this trip?
Ans. Yes, sir.
Question. Did you ever know of her running into the bank?
Ans. She ran into the bank once, but I was not on her then. I do not know that she ever ran into the bank.
(Signed) R. D. COURT.

1032 N. S. GREEN sworn for the Richmond.

Examined by Mr. CAMPBELL:

Question. Are you master of the Richmond?
Ans. Yes, sir.
Question. Were you master of her at the time the collision took place between the Richmond and the Sabine?
Ans. Yes, sir.
Question. State all you know about it.
Ans. We left here on Saturday night and proceeded to the elevator, and took on a lot of sugar there. We then left the elevator at half past one o'clock, and as we passed the old stock yard I took out my watch and looked at it; it was just twenty minutes to two as we passed there. We proceeded on up the river, and I went into my room after that and sat down.
Question. Whereabouts was the boat when you went into your room?
Ans. Just below Carrollton, turning to go around Nine Mile Point, and there came up a little shower. The wind was blowing very considerably, and I then started to go down stairs to see if the freight was covered up, but did not do it. I came to the conclusion that I would go up, not down, and came back and shut the door, taking a cigar out and commenced to smoke it. I was a little sleepy, but not tired. I smoked for

some time, about half the cigar I reckon, when I heard my boat whistle. I sat there and listened a minute; then I got up and went to the door, but could see no boat; only a train of cars was coming round Nine Mile Point, and I saw the light. I supposed it was a train of cars. I said nothing, but went back to get off my clothes and go to bed and lay there some time. I had not got to sleep; and after a little time I heard the whistle blow again, and she (the Sabine) answered. I heard the other boat blow two whistles—crossed my whistle; then I immediately got up and came out.

Question. Where is your room?

Ans. Right forward of the texas. I suppose twenty feet from the bell. I do not believe it was over that. The texas comes forward forty or fifty feet of the chimneys.

Question. You came out then?

Ans. I hallooed to the pilot and asked him. I saw this boat
1033 coming, and saw she was going to run into us. I asked him if he was backing her on both engines. He made some remark which I did not understand, but I was satisfied that she was backing. He blew the whistle again—the same whistle—and that boat answered it all at once, and about that time they were into each other. Then the mate was out on the roof at the time, and I heard him halloo something, but did not know what it was except, "Why don't you stop that boat?" He was forward of the bell, and I was between my room on the texas and the sky-light; but just before they struck I saw down over the guard clear forward. She came round the point and came into us, I suppose eight or ten feet from the stem, on the larboard side of my boat and the starboard side of theirs, and knocked one of my larboard knees over on the larboard quarter, and broke in the plank about the eight-foot mark; stove it in and knocked the stem over to the starboard, forward, to the starboard side, causing it to leak pretty badly.

Question. When you heard the signal crossed and came out did you notice which direction your boat was running at that time?

Ans. Yes, sir; she was going towards the right hand shore going up; she appeared to me to be pretty close to the shore, and I suppose she was.

Question. How far were the boats when the two first signals were sounded by the Sabine?

Ans. When she crossed our whistle?

Question. Yes.

Ans. Well, that is a pretty hard matter for a man to tell; she did not look to be a very great distance; after I first saw her she waited to answer until we got pretty close together; it seemed to me some time before she answered the first whistle; I suppose three or four minutes.

Question. You were in your room that time?

Ans. I was in bed when my boat blew the first whistle, and I waited for an answer from the other boat; I always get up when I hear a whistle, no matter whether it is for a landing or not; I can hear down the texas.

Question. At the time she crossed your whistle you immediately came out, you say?

Ans. Yes, sir; the minute she crossed my whistle I came out.

Question. How far off was the Sabine at that time?

1034 Ans. She might have been two hundred and fifty yards, perhaps not so far; I could not say exactly.

Question. Did you notice then the direction in which the Richmond was steered, after the signals were given?

Ans. For the shore or bank; she headed towards the bank.

Question. Do you know whether any bells were rung on the Richmond to back her?

Ans. Well, I did not hear the gongs ring; I heard the bells ring to stop, but I did not hear them in my room; I have got very large bells there so that I can hear them.

Question. You stated that your boat blew one more signal after that, answered about the same time by the other boat?

Ans. Yes, sir.

Question. How far were they apart when your second signal was crossed?

Ans. Not very far apart when she answered our whistle the second time.

Question. About how far?

Ans. When our second signal was exchanged they were not over the length of my boat apart; the Richmond is three hundred and forty feet long.

Question. When they came together how was the Richmond headed?

Ans. For the bank?

Question. Which bank?

Ans. The right-hand shore going up.

Question. Which way was the Sabine headed?

Ans. She was heading into the shore, trying to get the inside.

Question. The inside of what?

Ans. Between me and the bank.

Question. What shape did the boats come together?

Ans. About a triangular shape.

Question. Was it in the shape of the letter A or V?

Ans. Yes, sir.

Question. Which way was the Sabine's stern at the time the collision took place?

Ans. She was quartering in the river with her head pointing to the shore.

Question. Was it quartering up the river or straight out in the river?

Ans. Her stern was swinging down the river, and when she was coming round the point her head caught in the slack water; the wind was blowing very hard at the time.

1035 Question. Do you know whether the Richmond was backing at the time of the collision?

Ans. Yes, sir; she was.

Question. How do you know?

Ans. Because I watched the shore, and after that, I asked the pilot if he was backing; I watched the shore and saw her back up and her head swinging toward the shore; I saw not only that, but heard the water; when she backs she throws the water forward so very hard that you can hear it; a man that is used to her can hear it very plain; it makes a great deal of ruffle on the water.

Question. Did you notice any ruffle?

Ans. Yes, sir; I can always tell, and I am more or less familiar with the wheels, and can tell whether they are backing or not.

Question. Do you know what she was doing when the collision occurred?

Ans. She was backing.

Question. Do you know what the Sabine was doing at the time the collision occurred?

Ans. Well, I do not know positively, but it looked very much to me as if she was going ahead.

Question. What makes you think she was going ahead?

Ans. Because when I was backing away from her, out into the river, I noticed that the water swelled behind her as if throwing the wheels over; I noticed that very particularly.

Question. Could you see any spray from the wheel?

Ans. Well, I thought I did; it looked very much like it, as if she was going ahead; her headway certainly was not checked, that is certain, otherwise she could not have got into the bank and sunk with her stem up stream, if she had been backing.

Question. Did you notice what became of the boats immediately after the collision; what did the Richmond do?

Ans. She backed out into the river and I stopped her as soon as I could, and came ahead again and got alongside of her.

Question. What did the Sabine do immediately after the collision?

Ans. She sunk under the point.

Question. Did she move into the shore rather?

Ans. Her stern was up stream and the head pointing out.

Question. Did the Sabine move on, in towards the shore, or not?

Ans. She had to go in, for she did not have far to go; she went in, into the shore.

1036 Question. How was the blow struck—how did they come together?

Ans. It struck the Sabine; her break was right abreast of the capstan, on the starboard side; it mashed her in down to her three-foot mark.

Question. Look at these photographs, marked 1, 2, and 3. (Claimant of Richmond.)

(Witness examines them.)

WITNESS. I had them got up myself; I was present when they were taken.

Question. Were they taken from the Sabine as she lay?

Ans. Yes, sir.

Question. Are they correct representations of the Sabine as she lay at that time?

Ans. Yes, sir; the three of them.

Question. Will you please state how the Richmond steers?

Ans. As well as any big steamboat ever steered in the world.

Question. How long have you been running on her?

Ans. Over two years.

Question. Did you ever know of running off with the pilot and running into a bank?

Ans. Yes, sir; she did it with me once.

Question. Whose fault was it?

Ans. Well, it was a good deal such a place as this up here; she got her head into the slack water and her stern into the current; I stopped at the starboard wheel and tried to strain it down, but the current going down against her stern, and the slack water against her head, she went into the bank and never was stopped until she struck; it was not the fault of the boat that she went in, it was the fault of the pilot.

Question. You say it was such a place as Twelve Mile Point?

Ans. That is in the water—there is two waters there, one down and the other up.

Question. Was your boat coming down stream at that time?

Ans. Yes, sir.

Question. What does the ring of the gongs on the Richmond mean?

Ans. They mean to back her; there was one there that we had that could be distinguished from all the other bells; I had those big bells put on so as you could hear them and make no mistakes; the
1037 pilots could hear them in the pilot-house as plain as in the engine-room; you can hear it all over the boat.

Question. Examine this map marked Z Z, and state if you had that map made.

Ans. Yes, sir.

Question. Is it a correct representation of the river at that place?

Ans. Yes, sir, as near as I can judge, and as near as it can be made.

Question. Look at the diagram there of the bows of a steamboat; what are they—what boat do they represent?

Ans. They represent the Sabine.

Question. After the collision?

Ans. Yes, sir; after she was brought down here.

Question. Is it a correct representation?

Ans. I believe it is, as near as can be got.

Question. Who was it taken by?

Ans. I don't recollect the fellow's name.

Question. Was he a draftsman?

Ans. Yes, sir; and it is drawn according to scale. This was taken from the map.

Question. After you backed away from her, did you get any signal of distress from the Sabine?

Ans. Yes, sir; she blew her whistle.

Question. Did you go to her assistance?

Ans. Yes, sir; as soon as we could get back to her again.

Question. How long did you lay by her, assisting her?

Ans. About fifteen or sixteen hours.

Question. Did you take the passengers off her?

Ans. Yes, sir.

Question. Did you take off any of her furniture?

Ans. Yes, sir.

Question. Any of her cargo?

Ans. Yes, sir.

Question. Did you make any effort to get her in a safe place?

Ans. I landed my boat outside of her; the slack water turned the stern up stream, and I got the people off. Then I took the line ashore from the bow of my boat and tied it to a little tree, and the tree was pulled up by the roots, and the head went out into the river, and we immediately got the line out, as soon as I could heave to the capstan and get it back again; and the line let go again, and the wind shifted, and I discovered the boats going down into the river. I tried to
1038 land her, but could do nothing with her until I got into the current. The wind was blowing to a gale when I got on the upper side of her and kept her from turning over. Then I took another line from the forward stancheon and made it fast to the cavil, and worked my boat as slowly as I possibly could, and went into the shore. I took the cotton off until the wreckers came up. She settled in fourteen or fifteen feet of water.

Question. You were able to ascertain, at that time, or know exactly how she was hurt?

Ans. No, sir; because the break was under water.

Question. How wide was the river there, where this collision occurred, at Twelve Mile Point?

Ans. I should judge a mile wide; it might not have been so much, or a little more. It's very wide there.

Question. What is the position of Waggaman's? Is that above the point or above the place of collision?

Ans. It is, I should judge, if any, it is a little above the point. There is not much difference from the main point of Twelve Mile Point.

Question. How far is Waggaman's above the point of collision?

Ans. It is between a quarter and a half a mile from where we came together.

Question. Waggaman's is on the opposite shore?

Ans. Yes, sir.

Question. Did you notice the signal-lights on board the Richmond?

Ans. Yes, sir; I never came out or looked up on the roof, but I saw them.

Question. They both were up?

Ans. Yes, sir, they were; when the pilot was backing, I make it a very particular point to see about my lights.

Question. Were they in their proper places?

Ans. Yes, sir, they were.

Question. Do you know why the Richmond's head was pulled in towards the shore after the signals were crossed?

Ans. To avoid or get away from that boat she commenced backing, and as a matter of course her head would come into the shore in the slack-water; being in the slack-water, her stern would back out into it.

1039 Question. Did you state whether the Richmond was or was not properly manned and provisioned for a voyage to St. Louis?

Ans. Yes, sir; she was as properly manned and equipped as any steamboat, properly manned and equipped in every respect, and had two as good pilots as ever turned a wheel.

Question. From what you saw at that collision can you state whether or not it would be possible for the Richmond to have avoided that collision by adopting any precaution whatever?

Ans. She could not do anything more than she did; if she had been landed the Sabine would have run into her the same way; it would have been impossible to get rid of her, except to back down the river faster than she was coming down; we were pretty close to the shore—about seventy-five yards from the righthand-side shore, going up, when she struck us.

Question. Did you say anything to anybody on the Sabine about the way the way that boat was handled at the time of the collision, or before it?

Ans. I might have made the remark that it was a pretty bad job on their part.

Question. Did you hail them?

Ans. I hailed them—"Why don't you back the boat?" I told the mate about it.

Question. Did you see anybody on the roof of the Sabine?

Ans. I saw nobody.

Question. Did you get any reply?

Ans. I never got any notice whatever; the only thing was that I got a signal to come back to her. The cotton was up to the hurricane roof, and was on the hurricane roof, and the boiler-deck was piled full of cotton all around; nobody could see anything of her during that night, she was so full of cotton; I took the cotton off the boiler-deck myself, and cut away the stauncheons to get it out.

Cross-examined by Mr. MARR:

Question. Did you notice the wheel of the Sabine until after the boats had collided, when you were backing away from her?

Ans. I was looking at it very close to see what it was doing.

Question. Did you see which way the wheel of the Sabine was turning until after the collision occurred?

Ans. I could not see the wheel turning; I could only judge by the way she was going.

1040 Question. Was this before or after the collision occurred?

Ans. After the collision occurred, when we were backing away from her.

Question. When you were backing away you saw which way the wheel was turning?

Ans. I should judge she was going ahead, by the way the water looked.

Question. After the collision she was backing away?

Ans. Well, we were not a great distance from her.

Question. And you did not see any wheel at all; you only judged from the appearance of the water?

Ans. That is all that we have to judge by a great many times.

Question. At the moment of the collision, which way was the head of the Sabine, and which way was the stern?

Ans. She was quartering into the shore.

Question. Which way was the stern holding, and which way was the head holding?

Ans. The head was quartering into the shore, and the stern must have been into the river.

Question. She was in slack-water?

Ans. Well, I don't know whether the whole body of the boat was in slack-water or not; the head was in slack-water and the stern was in the current.

Question. Now, if the stern of the boat is out in the current, and she is quartering into the shore, and her head in slack-water, and her head comes into collision with another boat, would it not tend to throw the stern further down stream or up stream?

Ans. Well, that depends a good deal upon what the boat was doing; of the Sabine had been backing at the time she hit the Richmond, and the Richmond had stern-way on her, the Sabine, by the light shock that she gave, the stern would have come down in the current; but if she was going ahead, and she struck the Richmond the way she did, and got into the shore, and sunk stern up stream, it showed very well that she could not have been backing.

Question by Mr. VOORHIES:

Question. Did you notice whether, immediately after the collision, the Sabine swung on the Richmond?

Ans. Well, I didn't notice that particularly.

1041 Question. Then your idea is the way the boat would swing after the collision, or from the effect of a collision, would depend upon whether her wheel was going ahead or backing?

Ans. To a great extent, as a matter of course.

Question. Did the Sabine sink in the position in which she got the blow?

Ans. She went into the shore and sunk stern up stream, under the point, with the starboard out.

Question. Now, then, how much and how far; how many lengths of the Sabine did she get after she got the blow until she sunk?

Ans. Well, sir, I suppose she was seventy or seventy-five yards from shore; she had to go in that distance; I think she had to go seventy or seventy-five yards.

Question. She got the blow from the shore and went into the shore and sunk; now, was there any material change in the course of the Sabine from the time she got the blow until she sunk?

Ans. She just made that much difference of change in going from where she struck into the shore.

Question. Did the Sabine sink before the Richmond got back to her?

Ans. Yes, sir; she sank when I came alongside; she did not take long to sink; she was so heavily loaded that very little water in her would put her down.

Question. Did she sink about sharp off the shore, her stern up stream and her head down?

Ans. There is a sort of a flat shore there and her head was out in that, a kind of sharp.

Question. Her head, then, was quartered out from the shore?

Ans. A little out, and I got a line from my boat to the shore; I don't know how far it was, but it took a long time to get from my boat to the shore.

Question. But her head was out from the shore?

Ans. Yes, sir; inclined that way.

By Mr. VOORHIES:

Question. When the Sabine sunk, did she sink down in the same position without changing?

Ans. No, sir.

Question. How long did she remain in that position?

Ans. Well, I think that she lay where she sunk the first time—it might have been three or four hours, I reckon; it was shortly after daylight that the wind shifted and blew both of us out into the river.

1042 Question. Did she remain at the place where she sunk until daylight came?

Ans. Yes, sir.

Question. When daylight came, you were able to see where you were?

Ans. Yes, sir.

Question. How far was the place at which the Sabine sunk from Twelve Mile Point?

Ans. How far below it?

Question. Yes.

Ans. Well, I never measured it; I cannot swear to that, but what I should judge it to be—I should judge it might have been half a mile, and it might not have been that much—not over a quarter of a mile; between a quarter and a half a mile, probably.

Question. When the Sabine blew her first two whistles, was she below the point or rounding the point?

Ans. Rounding the point, as near as I could judge; the pilot can always tell better.

Question. Had any whistle been given by the Sabine before she appeared in sight?

Ans. I didn't hear any.

By Mr. MARR:

Question. When the stern of the boat is in the current and the head

in slack water, will not the tendency be to swing the stern down stream and the head up stream?

Ans. Most assuredly it will.

Question. And whether you are backing or going ahead, would not that be the tendency?

Ans. Not so much as if backing; if her head is in the eddy, that is a different thing from the slack water.

Question. Is there any difference in the effect of backing on a stern-wheel boat and a side-wheel boat as to change the direction of the boat?

Ans. Yes, sir; it depends upon how the wind is blowing.

Question. If the wind is blowing, it is different in backing a stern-wheel boat and a side-wheel boat?

Ans. A stern-wheel boat generally backs to the wind.

Question. Which way did you say the wind was blowing that night?

Ans. On the shore.

1043 Question. Well, the wind blowing on the shore and the Sabine backing, what would have been the effect?

Ans. She would have backed her stern out into the river.

Question. Did you see the light of the cars passing down the shore that night?

Ans. I seen the light, but I do not know whether it was the cars or not.

Question. Was it a moving light?

Ans. Well, I should judge it was; I could not tell, because I did not look at it close enough to be particular; I did not see any boat coming in my direction.

Question. Did you look carefully when you heard the whistle to see if there was a boat?

Ans. I did.

Question. Did you see it?

Ans. No, sir.

Question. Do you know how far she was from the right-hand shore when you heard that?

Ans. We were crossing over from Kennedy's into the river.

Question. Crossing over from Kennedy's, how far below Twelve Mile Point do they strike out?

Ans. Well, I never noticed particularly; sometimes we run a little further out and sometimes a little further in.

By Mr. CAMPBELL:

Question. Are you a pilot?

Ans. No, sir, I am not.

By Mr. MARR:

Question. On the moment after this collision occurred, did you not, on board of your boat, the Richmond, in the presence of Captain Selby or Fuller or Levy, tell them that when you saw the cotton of that boat that you thought you ran into a rag heap?

Ans. I don't know that I had any such conversation at all.

Didn't you make a remark to that effect or that remark itself?

Ans. I don't recollect making any such remarks as that.

Question. Are you prepared to say that you did not say so?

Ans. I have answered the best I can in regard to that, but I have no recollection of having any conversation about it at all.

1044 Question. Nor making any remark about it to anybody?

Ans. No, sir.

Question. When you went out in your night clothes, just before the collision occurred, who did you see standing on the hurricane deck of your boat?

Ans. I saw my mate.

Question. Did you know that he had just come up from the lower deck?

Ans. No, sir, he was there; he stood out forward of the bell, and I up between the texas and my room, at the bell.

Question. He left the hurricane deck and returned before you came out?

Ans. Yes, sir; he was there before I came out.

Question. At that time you saw the collison was imminent?

Ans. I saw the boat was coming right into me.

Question. Did the stem of the Richmond penetrate the Sabine at all?

Ans. I don't think it did.

Question. What part of the Richmond was it that reached as far back as the capstan of the Sabine and knocked down the bed plate of the capstan?

Ans. When they came together the deck of the boat smashing up must have jammed the capstan.

Question. How high did the guards of that boat sit above the water?

Ans. Well, sir, I never measured it; it is considerable.

Question. Could the guards of your boat break the Sabine?

Ans. She ran under my guard.

Question. But if she did, would she not have cut through the hull?

Ans. So she did; she cut one plank.

Question. But why was not all the planking broken?

Ans. Because she was able to stand the pressure.

Question. What part of the Richmond struck her?

Ans. That is more than I can tell.

Question. I want to know could any part of the guards of the Richmond break through the Sabine?

Ans. I stated that some of my guards cannot cut the capstan.

Question. I want to know what part of the Richmond cut the deck planks of the Sabine and cut up to the capstan of the Sabine?

Ans. By hitting me on the larboard quarter of the hull, and running under in that shape mashed the breastworks in.

Question. Did you examine the timbers of the Sabine?

Ans. Yes, sir.

1045 Question. Did you find them of oak, new and strong?

Ans. Yes, sir; she was a very nice strong-built boat.

Question. Was not the Sabine cut about half across?

Ans. She was mashed—not cut.

Question. Well, broken?

Ans. Her guards were broken; the outriggers were lifted up and mashed the deck over. She was not cut down when I saw her on the decks; the frame was mashed over. That I saw.

Question. Do you think that the force of a collision is greater when boats are going the same way or meeting?

Ans. I do not think it would be as great.

Question. Do you know any means by which side-motion could be given to a stern-wheel boat, so as to force herself strong enough against another boat so as to drive through the timbers, up to the capstan?

Ans. If she has got steam, and the engine going, she is bound to break something.

Question. Does the propelling power of steam give her back motion or side motion?

Ans. It depends upon how the boat is going.

Question. Can you by any means work the engines of a steamboat to make the boat go sideways through the water?

Ans. If you have got a side-wheel boat and you want to bring her into the shore, and if she is straight up the river with the current, you can stop the shore wheels, and that does it.

Question. Suppose you have got a stern-wheel boat, how are you going to give it that swing?

Ans. It just depends on the way you flank them; you can flank a stern-wheel boat any way you want; that has been demonstrated before.

Question. Since this collision occurred, have you not brought the Richmond into collision with a ship in this harbor?

Ans. No, sir; but she was alongside of one.

Question. Did you do some injury so as to cause damages to the ship?

Ans. The cause was, that I rounded in to come down to the landing, the wind was blowing a perfect gale—when I found that I could not get her in so, I stopped before the ship and landed alongside of it; it did not hurt the ship much.

Question. It was the violence of the gale then?

Ans. Yes, sir; it was terrific.

1946 By Mr. MARR:

Question. Did you not break the sides of the ship for about fifty or sixty feet?

Ans. I broke in the bulwarks above the hull fifty feet.

Question. From what you saw of the timbers of the Sabine, and from what you saw of the injury done to the Sabine, would you state that that injury was done by a vessel that was receding from the Sabine at the time?

Ans. I do not know whether the injury was done by a boat receding; it was done, that is all I know about it; I know that my boat did not have on headway.

Question. If the stern of the Sabine was in the current, and the head of the Sabine was in the slack water—if there was any—would not that condition of things have tended to throw the head of the Sabine up the river, and off from your boat?

Ans. That depends upon what the boat was doing at the time.

Question. If she had been going ahead, what would have been the effect?

Ans. It would have been enough to change the course of the boat; I saw it.

Question. Is there not always a tendency when the bow of a boat is in slack water, and the stern in the current, for the stern to go with the current, and the bow to move with the eddy?

Ans. That depends upon the steerage way that they have on her.

Question. Do you mean to say that the tendency of this force depends upon whether the boat has got steerage way or not, or do you mean to say that the pilot, by the wheel, could counteract this influence?

Ans. I say that it depends upon the boat having steerage way no matter how he has her in hand.

Question. Then, at the time the collision occurred, the Sabine could not have been swinging with her stern down stream and her head up stream?

Ans. I do not know how she was swinging.

Question. Then she was not swinging at the time of the collision, with the stern down and the head up, was she?

Ans. I don't know what she was doing; by the way she struck us, I knew she was going ahead when she came into us.

Question. If she had been swinging and you were going down, she would have swung off from you?

Ans. She would have been apt to swing from me.

1047 Question. Then the head, being in the slack water or in the eddy, would have swung down the stream farther than the stern?

Ans. She would have got to the bank before she swung much; if her head went up stream, it showed that she had no sternway upon her.

Question. After the collision, did the Sabine have time to change her course?

Ans. I do not think that she did; she was too close to the shore.

Question. She could not have changed her position materially?

Ans. No, sir; I do not think they should have let a bit of water get into the boat; as she was, she sunk pretty quick.

Question. She must not have been about in that position at the time she came into the collision?

Ans. She was not in that position when they came together, because the stern was towards the shore and the head inclined out; she went some distance after she hit us to get where she did.

Question. You have just stated that after the Sabine got the blow, she did not have time to chage materially her position until the time that she sunk; now you say that she could not have been in the position in which she sunk at the time the collision occurred; how do you explain that?

Ans. She hit the boat in this shape (of the letter A), and the boat did not meet her in the same shape after she sunk, and lie to the shore, as she did when this collision occurred; that is the difference between it.

Question. How deep was the water when you got alongside of her?

Ans. Well, the stern of my boat was right close up against the shore, so that I caught along the flat shore; it was deep water on the bow of my boat, but I did not know what it was on her.

Question. Did you heave the lead?

Ans. Well, I don't recollect whether the pilot did or not; I know I asked him after I got up, and he said the stern was caught in the bank, and the head was in the deep water.

Question. Are you certain that you heard the bell from your boat that night?

Ans. As certain as I sit in this chair.

Question. What were they?

Ans. Both the stopping bells.

Question. How many gongs did you hear?

Ans. I did not hear the gongs to back her, only the bells that rang to stop her after the cross signal.

1048 Question. Which is the loudest?

Ans. The bell up on the guard.

Question. Is there a bell at each engine?

Ans. Right over each engine.

Question. And she backs by the gong?

Ans. Whenever they ring them gongs, she backs.

Question. Where were you at the time you heard the bell ring?

Ans. I was just coming out of my room at the door, and just as they crossed the signal I got up and went out.

Question. At that time, what was your estimate of the distance which separated the two boats, at the time you heard the bells ring to stop here?

Ans. It might have been three or four hundred yards, I don't know.

Question. How much speed was the boat making that night?

Ans. I suppose eight or nine miles an hour, or ten; I did not time her.

Question. Going at that speed, what distance did the Richmond run after you rang the stopping bell, before you could ship-up and back and give her sternway?

Ans. Probably two lengths of herself; I saw her do it when I tried on purpose, landing at the shore.

Question. And you can do it in two lengths of the boat?

Ans. Well, it depends on circumstances; on the kind of water that you are in, and the kind of boat.

Question. Had you a strong current there?

Ans. She was in the slack water.

Question. Would you take her up when the current was helping her on, or in the slack water?

Ans. When the current was helping her.

Question. You did not get much help from the current that night?

Ans. Not much.

Question. Then, in that way, you think she could have stopped in two lenghts of herself, stopped, backed, and got sternway?

Ans. Well, I suppose she could; she backs very strong.

(Signed) N. S. GREEN.

The above testimony of the witnesses, Jack Courts and Green, was reported stenographically by me, and is correct.

H. LANGFORD,
Phonographer.

1049 SARAH C. SHIRLEY ET ALS. *versus* STEAMER RICHMOND. } No. 9822.

MERCHANTS' MUTUAL INSURANCE COMPANY *versus* STEAMBOATS SABINE AND RICHMOND. } 9823.

Testimony for steamer Richmond, taken by consent, in presence of G. Campbell, M. M. Cohen, B. Egan, and R. H. Marr, and Billings & Hughes, this 25th May, 1872.

JESSIE MCHAFFIE, being duly sworn, says:

I reside in New Orleans; am a ship carpenter, and have been for nineteen years and more.

Question. Did you examine the Sabine immediately after she was raised and brought down to New Orleans, after the collision with the Richmond?

Ans. Yes, sir; I examined the break after the Sabine was hauled out far enough for me to see it; i. e., after she was sunk, and at the place where she sunk; I also examined her afterwards at the foot of Thalia street, New Orleans; examined her closely.

Question. Can you state how that break was made, assuming that it was made by a collision between the Richmond and the Sabine?

Ans. As near as I can tell, the Sabine was struck by the side of the

stem of the Richmond, by swinging right across the bow of the Richmond, because the Richmond's stem was knocked to the starboard.

1050 Question. From your observation of the break of the Sabine, state how that blow must have been inflicted—how the cut was made; examine the diagram marked G G, and state whether or not it represents your idea how the two boats came together.

Ans. It is a little further aft on the Sabine than she was struck.

Question. Will you state whether or not the break in the Sabine was caused by the mashing in of the side of the Sabine by the side of the stem of the Richmond?

(Question objected to by M. M. Cohen, esq., for Merchants' Mutual Insurance Company, on the ground that it is a leading question. The question should be: How was the break caused, and by what?)

Ans. Yes, sir, it was; it could not be otherwise.

Question. Did you notice the chock of the Sabine, on the starboard side, forward of the break, when you examined her?

Ans. The warping chock of the Sabine was not broken on the starboard side, forward of the break; the decking forward of the break was gone; the warping chock was left standing there; it was not broken; it had no support; the outriggers were taken away from under it.

Question. Would or would it not have been possible for the Richmond to have come into the Sabine head on, striking a blow from forward aft, with that warping chock remaining as it was?

Ans. No, sir; it could not have been done and left it standing, and make the break she did.

Cross-examined by M. M. COHEN:

I examined the Sabine at the time referred to in my direct examination, at the request of Capt. Green; don't recollect who was present; I believe Mr. Lusk was present, but am not positive; could not tell at what time of the day it was that I examined her; paid no attention to it.

Question. Did the Sabine and the Richmond come together sideways?

Ans. They came together sideways; couldn't have come otherwise.

1051 Question. If the Sabine was piled up solid full of cotton within one foot of her capstan, would not the guards of the Richmond have struck the cotton on the Sabine's guards and forecastle first?

Ans. She could not have been piled up with cotton within one foot of her capstan.

Question. If the Sabine was piled up solid full of cotton within one foot of her capstan, would not the guards of the Richmond have struck the cotton on the Sabine's guards and forecastle first?

Ans. I can't answer it; I told you it couldn't be done.

Question. If it could be done, would not the guards of the Richmond have struck the cotton on the Sabine's guards and forecastle first?

Ans. Yes, sir, because she carried the cotton off on the Richmond's forecastle and upset a knee striking the cotton.

Question. Were you present at the collision?

Ans. No, sir.

Question. How, then, do you know that she carried the cotton off on the Richmond's forecastle and upset a knee striking the cotton?

Ans. I jumped off the Richmond when she backed out from the wharf, and the knee was standing up.

Question. How do you know that she carried the cotton off on the Richmond's forecastle?

Ans. Because the Richmond brought the cotton to the foot of Thalia street tumbled over on her in that way.

Question. How do you know that the cotton that the Richmond brought was ever on the Sabine?

Ans. St. Louis boats don't carry cotton up the river.

Question. How do you know that it was not some other boat's cotton ·ides the Sabine?

Ans. Because she went no further than Twelve Mile Point, and had collision with any other boat but the Sabine, and she had no cotton en she left this port.

Question. How do you know that she went no further than Twelve Mile Point?

Ans. That was where the collision took place—where I was taken and found the Sabine sunk.

Question. Who took you?

Ans. I went at Capt. Nat. Green's request.

Question. Did you examine the Richmond's guards on the larboard side after the collision?

Ans. Yes, sir.

Question. Were the Richmond's guards or nosing around the outside of the guards on the larboard side broken or not?

Ans. They were.

1052 Cross-examined by R. H. MARR:

By warping chock I mean the warping chock of the Sabine; by that I mean there are two shieves placed in a warping chock within two and a half feet from the gollows frame; that chock is held there for hauling the boat out of the wharf or into it.

Question. If you were to draw a straight line from the centre of the jackstaff aft to the stern of the boat, would that line touch this warping chock?

Ans. No, sir; it would strike between the two balance rudders and the stem; that's a straight line on a steamboat.

Question. Suppose you were to stretch a line from the centre of the jackstaff upon the main deck of the Sabine towards the stern of the boat, how would the capstan of the boat and the warping chock stand in reference to that line?

Ans. The jackstaff, capstan, and warping chock would stand on that line; that is, the forward end of the warping chock. I am in my own employ; I work for myself; am what we call a jobber on the levee. The side of the Richmond caused the injury on the Sabine. On the outer guard of the Sabine the injury was from 20 to 25 feet in width; the wound of the Sabine was from 10 to 12 inches at the bottom, and at the capstan from 20 to 25 feet in length on the deck; have never measured it with a rule. There was a break on the starboard guard of the Sabine; the distance from the aft end to the forward end of that break was from 20 to 25 feet; that break extended as far up as the capstan of the Sabine.

Question. From that part of the break at the capstan, how far is it from the part which is nearest to the boiler to the part which is nearest to the jackstaff of the Sabine?

Ans. It's a hard question to answer; I cannot answer it.

Question. What is the extent of the break from that part of the break which is towards the boilers, just at the capstan, to that part of the break which is nearest to the jackstaff on the same line?

Ans. To the jackstaff, about 8 to 9 feet.

Question. Do you mean to say, then, that the break in the line of the capstan comes up to within 8 or 9 feet to the jackstaff?

Ans. It comes clear to the jackstaff, because a plank was torn loose from the stern.

1053 Question. How far is it from the extreme end of the break next to the jackstaff to the extreme end of the break at the capstan?

Ans. If you take the shape of the bow, it's twelve feet; in a straight line it's about eight or nine feet.

Question. If you were to stretch a line straight along the main deck, fore and aft, from the extremity of the break next to the jackstaff to the extremity of the break next to the capstan what would be the length of that line?

Ans. It's about in the neighborhood of from 20 to 25 feet.

Question. How far is it from the jackstaff of the Sabine to the capstan of the Sabine?

Ans. Eight or nine feet.

Question. How far does this break extend aft to the capstan?

Ans. Twelve or fifteen feet.

Question. Are not what you call the warping chock between the capstan and jackstaff?

Ans. No, sir; it's forward of the jackstaff.

Question. Did you notice the forward bits of the Sabine?

Ans. Not that I have seen.

Question. Don't these bits stand on a line with the capstan and the jackstaff?

Ans. They are on a straight line with them.

Question. Did you observe whether the bits were standing on the Sabine or not?

Ans. No, sir, I did not; as far as I saw I took no particular notice.

Question. How far do these bits stand aft of the jackstaff?

Ans. Between three and four feet.

Question. Did you notice, when you first saw the Sabine, whether her jackstaff had fallen or not?

Ans. I did not.

Question. When you examined the boat so carefully, at foot of Thalia street, did you observe whether her jackstaff was there or not?

Ans. I did not.

Question. When you have been speaking of this wound on the Sabine and of its extent, have you been referring to the upper part or to the lower part of the break?

Ans. I did not take any notice of the upper part of the break at all; by upper part, I mean the cabin.

Question. Confining yourself to the main deck, and to the break on the main deck and on the hull of the Sabine, what is the difference

1054 in the width of the break on the main deck and the width of the same in the hull, as low down in the hull as it extends?

Ans. It's from ten to twelve inches in the bottom, or thereabouts, and on the main deck from twenty to twenty-five feet.

Question. Then, as far as this break goes, it's narrower at the bottom than at the top?

Ans. Yes, sir; it is.

Question. What part of a boat, coming in collision with another boat, could cut into the boat from twenty to twenty-five feet in width at the top and from ten to twelve inches at the bottom?

Ans. The stem.

Question. The way the Sabine was loaded at the time of the collision, what depth of her was down in the water?

Ans. I cannot tell.

Question. How low down is the Sabine cut, sir?

Ans. As near as I can judge, from five and a half to six feet.

Question. How much of that was under water?

Ans. I could not tell.

Question. If the Sabine was loaded down so that she was drawing about six feet forward, how much of that part of the Sabine that was cut into was under water?

Ans. If the boat drew six feet there were from three to four feet under water.

Question. What part of the Richmond could have come in contact with that part of the Sabine that was in the water and has made a break from ten to twelve inches at the bottom in width?

Ans. I cannot answer that question; if you put it right I'll answer it.

Question. Do you know that some part of the Richmond penetrated as far as the capstan of the Sabine?

Ans. Yes, sir.

Question. In a direct line, descending from the capstan to the hull of the boat, what is the width of the break at the lowest point of the break on that line?

Ans. I can't answer that question; I don't understand it.

Question. Does the capstan set perpendicularly upon a spindle?

Ans. Yes, sir; the lowest part of the spindle rests on a saucer.

Question. What does that saucer rest on?

Ans. Some rest on the breast-hooks, some on a piece of timber put across the breast-hook for that purpose, and some on the main kelson.

1055 Question. In the case of the Sabine, where did it rest on?

Ans. It rested on a piece of timber put on for that purpose—a piece of timber resting on the cross-tree of the breast-hooks.

Question. How many breast-hooks on the side has the Sabine?

Ans. Don't know; there must have been two; there ought to have been three. I observe that some of them were broken—can't tell; didn't examine them very particularly. Those breast-hooks were made of oak; cannot tell their dimensions.

Question. How far was the piece of timber upon which the saucer stood, on which the spindle of the capstan rested, from the kelson?

Ans. Could not tell; could not examine it on account of the water in the hull. If it didn't rest on the kelson it must have had shores under it; didn't see any there on account of the water.

Question. In point of fact, then, you didn't know upon what the timber on which the saucer stood rested on?

Ans. Don't know; it was under water; could not tell how thick was the piece of timber on which the saucer stood; as a general thing it has four inches; have noticed the bow timbers of the Sabine; the bow timber are called cants.

Question. I am asking you about the pieces of wood to which the hull plank of the Sabine is nailed or fastened, and asked you if you observed those pieces of wood, by whatever name they are called?

Ans. Yes, sir; they were caved in from a side blow; have noticed them.

Question. What was the size of those timbers?

Ans. Could not tell; didn't measure them; they were oak, and were apparently new and well proportioned to the size of the boat.

Question. Stretching a line from the centre of the jackstaff, passing the bits, going to the centre of the spindle of the capstan, how far did the break extend beyond, that is, to the larboard of that line?

Ans. Don't think that it went any further than the capstan's spindle.

Question. Was the capstan's spindle knocked down?

Ans. Did not take particular notice of it, as it is out of my line of business.

Question. Did you observe whether the lower end of the spindle of the capstan was in the saucer on which it stood?

Ans. No, sir.

1056 Question. Going down from the larboard extremity of this break that you saw on a straight line towards the bottom of the boat, what was the width of the break in the Sabine at the lowest point of the break?

Ans. Ten or twelve inches.

Question. Did you see such a piece of machinery as the nigger engine that works the capstan?

Ans. I have seen it; I know you mean the capstan engine; as far as I could see, the condition of that machinery was in good order when I first saw it.

Question. Did you notice the bed-plate of the capstan at that time?

Ans. There's no bed-plate to the capstan; it belongs to the engine that runs the capstan.

Question. Did you observe the running-gear of the capstan?

Ans. I didn't do it; it's out of my line of business.

Question. Then you did not perceive that the running-gear of the capstan was disturbed by the collision?

Ans. I didn't examine it closely; saw cogwheels belonging to the running-gear of the capstan; they were not displaced that I noticed; I did not see any broken cogwheels.

Question. Have they not a contrivance on the capstan that they call a barrel?

Ans. The barrel is the capstan; it was not knocked off the spindle; of course not; did not observe the spindle of the capstan particularly; the barrel and spindle were not separated by the effect of the collision.

Question. Are you able to point out, on Exhibit 2, the spindle of the capstan?

Ans. Not on this; the Sabine was cut away right across the forecastle, and a bulkhead built across and covered with canvass; it was cut across by the wreckers.

Question. How far aft of the capstan was that bulkhead?

Ans. I should suppose about nine or ten feet.

Question. You never saw the Sabine until after the wreckers had cut away the planks of her main deck?

Ans. Subsequently to the collision I never saw her until after the wreckers had cut away the planks of her main deck and built a bulkhead.

Question. Then, in point of fact, you do not know what was the condition of the main deck of the Sabine before the wreckers had cut away the planks and built a bulkhead?

Ans. No, sir.

Question. When you went up to the wreck, how far was the Sabine lying below Twelve Mile Point?

Ans. She was lying four hundred or five hundred yards below Twelve Mile Point.

1057 Question. How far was she, in a straight line across the river, from Nine Mile Point?

Ans. Don't know—I didn't look at the shape of the river; the Sabine was lying about one hundred yards from the shore, as far as I can tell—nearest to this shore—the right hand shore, going up. I have been examined as a witness in this case before.

Question. If you were to stretch a line fore and aft from the stem of the Richmond on the main deck, twenty feet, then were to stretch a line across the main deck of the Richmond at right angles to the aft extremity of the fore and aft line, what would be the width of the Richmond from one extremity to the other of this cross line?

Ans. Can't tell.

Question. Does it exceed twenty-five feet?

Ans. Don't know, sir; never measured it.

Question. You have stated that the upper part of the wound or break in the Sabine is from twenty to twenty-five feet at the top and about ten to twelve inches at the bottom; does not the shape of that break correspond exactly with the bow of the Richmond?

Ans. It does not.

Question. How do you account for the fact that the wound of the Sabine at the top was from twenty to twenty-five feet in width and at bottom from ten to twelve inches?

Ans. When the Sabine swung across the Richmond's bow, she cut through with her stem, and the loff of her bow shoved this side in, i. e., the starboard side of the Sabine.

Question. Didn't the stem of the Richmond penetrate in the Sabine as far as her capstan?

Ans. Yes sir—in that neighborhood; it went in sideways.

Question. Was the Richmond, if it was the Richmond which inflicted that wound upon the Sabine, receding from the Sabine or approaching the Sabine at the moment that that blow was given?

Ans. If the Richmond had been approaching her head on she would have made a hole which I could have covered with the width of a gunny sack; I mean three feet.

Question. How far is it from the outer guard of the Sabine up to her capstan?

Ans. I can't answer the question.

Question. Have you no idea what distance it is from the outer guard of the Sabine up to her capstan?

Ans. No, sir.

1058 Question. Is it as much as ten feet?

Ans. Don't know.

Question. Is it as much as five feet?

Ans. Yes, sir.

Question. If it is as much as five feet from the outer guard of the Sabine to her capstan, the bow of the Richmond must have penetrated as much as five feet into the Sabine, did it not?

Ans. I don't think it could, from the break in the hull; the loff of the bow of the Richmond must have caused the damage on the deck.

Question. If the loff of the bow caused the damage on the deck, what caused the damage to the hull of the Sabine?

Ans. The bow of the Richmond; the bow of the Sabine was four or five feet ahead of the Richmond, and swinging across the Richmond's bow sprung the Richmond's stem about three inches out of her place, and it cut right through the side, and she being so much ahead of the

Richmond, it threw the weight of the blow across the head of the Richmond.

Question. If the stern of the Sabine was in the current and the head of the Sabine was in slack water near the shore, she coming down the river and her head pointing to the right hand shore going up; and the Richmond was backing, her head pointing in the same direction, i. e., to the right hand shore, could the Sabine have come in contact with the Richmond with sufficient force to have produced that wound?

Ans. Yes, sir; I don't know whether her stern was in the current; if her stern was in the current she could do it; anyway she could do it.

Question. If the stern of the Sabine was in the current, she coming down stream and her head in slack water and pointing to the right hand shore, which way would the head of the Sabine go?

Ans. If she was adrift her head would follow the eddy, and if propelled by steam her pilot could throw her head either way he pleased and with force enough against the Richmond to sink her.

Question. If the pilot of the Sabine, by means of his wheels, had thrown the head of the Sabine down stream, and the Richmond had been backing and going down stream, could the Sabine have been forced by that movement with sufficient violence against the head of the Richmond for the stem of the Richmond to have penetrated in the neighborhood of the capstan of the Sabine?

Ans. It's no question; the Richmond can back as fast as the Sabine could run.

1059 Question. Then, what do you think would be the effect of the Richmond backing as fast as the Sabine could run?

(Objected to by proctors for Richmond.)

Ans. There could be no collision.

Cross-examined by Mr. EGAN:

I was fully examined in this case on a previous occasion, when the matter was fresh in my mind. Captain Green sent for me this time. I know what a right angle is; am not a scholar and not able to give definitions. [The witness now perfectly illustrates with his fingers what a right angle is.] Don't know what an acute angle is. [Witness being asked what a triangle is now draws the figure, which is correct.]

Did not see the Sabine while she was in dock; the bottom of the Sabine was not cut below the garboard, which is fastened to the fore-foot; it's the next plank to the keel—there is only one plank below that; I know that her bottom planks were not cut because I went down there and felt them with my hands; the water covered them about a foot; I would certainly have felt it with my hands if they had been cut; to the best of my knowledge they were not cut. I know Mr. Octave Vallette; he had a better opportunity than me to know whether they were cut; he could see it and I could only feel it; he had the boat docked and repaired.

Direct examination resumed:

When I saw the Sabine a good portion of the deck had been cut by the wreckers, to build a bulkhead, and a portion torn away to pull up the chain that had fallen through.

The warping chock of the Sabine was in the neighborhood of twelve feet in length on each side of the jack-staff; the same length on each side.

JESSIE McHAFFIE.

Sworn to and subscribed before me, May 25th, 1872.

J. A. CHARBONNET,
D'y Clerk.

1060 GEO. CLARKE being first duly sworn, says:

I am an average adjuster; I reside in New Orleans; I drew up the protest of which this is a copy; the pilots of the Sabine—the two pilots of the Sabine—D. W. Ensminger and Thomas J. Harrison, dictated it; I wrote it down as they dictated it; it was read over in the presence of the crew of the Sabine, i. e. in the presence of those belonging to the Sabine, who signed it; I wrote it out as it was dictated and they made no objection to it; they swore to it; that is, all those who signed it.

Protest is now offered and marked O O.

O O.

Protest extended.

Steamer Sabine—Camden to New Orleans. 9822 and 9323.

Filed with the testimony of Geo. Clark, May 25, 1872.—K. Loew, *U. S. C.*

UNITED STATES OF AMERICA,
State of Louisiana, City of New Orleans:
NEW ORLEANS, *Febraary* 13, 1872.

By this public instrument of protest, be it known, that before me, Edward Ivy, a notary public, duly commissioned and qualified, in and for the parish of Orleans, State of Louisiana, and dwelling in the city of New Orleans personally came and appeared, N. C. Selby, master of the steamboat called the Sabine, who having heretofore, to wit, on the 13th day of February, 1872, noted before me, notary, for the uses therein set forth, his protest, in due form of law, now requires me, notary, to extend said protest.

1061 And with the said N. C. Selby also came and appeared D. W. Ensinger, pilot; Thos. J. Henry and Wm. Holtsclaw, engineers; R. F. Fuller, D. O. Harkins, and W. C. Levi, clerks; D. Truemal, mate; T. Fugit, carpenter; and Thos. J. Harrison, all belonging to the said steamboat Sabine, all of whom being by me first sworn do voluntarily, freely, and solemnly declare and depose as follows: That is to say, that he, the said N. C. Selby, departed in and with the said steamboat as master therof, from Camden, having on board a cargo of cotton, etc., and bound for the port of New Orleans; that the said steamboat was then stout, staunch, and strong; had her cargo well and sufficiently stowed and secured; was well masted, rigged, manned, tackled, victualled, apparelled, and appointed; and was in every respect fitted for the voyage she was about to undertake. Left Camden the 5th February, 1872; proceeded on the trip without any unusual occurrence until about two or three o'clock, on the morning of the 11th, when in rounding Twelve Mile Point the pilot discovered a boat ascending, some three or four miles below, on the right hand shore; heard a whistle and was in doubt if it was the boat or a passing train. The Sabine's whistle was blown twice, and not being responded to, two more whistles were blown, and the engines were reversed, and was backing about two minutes, when the other boat, in crossing the river to the left bank struck the Sabine on the starboard quarter, between the derrick and forward chock. About 150 bales of cotton fell off the guards into the river, and about 75 bales fell on the deck of the boat, which proved to be the Richmond. In about five minutes after the collision the Sabine sank. The Richmond then came alongside, took off the crew and passengers, and commenced taking on board cotton. In about an hour the Sabine and

Richmond drifted down stream about one and a half miles, when the Richmond succeeded in towing the Sabine where she now lies in fifteen feet water, about two hundreds yards from the bank; continued taking out cargo until about 5 p. m., when the Richmond left for New Orleans, with the passengers and a portion of the crew. Several of the crew were left at the wreck, under the direction of the agent of underwriters.

And the said master further says that all the damage and injury which already has, or may hereafter appear to have happened or accrued to the said steamboat or her said cargo, has been occasioned solely
1062 by the circumstances before stated, and cannot nor ought not to be attributed to any insufficiency of the said steamboat, or default of him, the deponent, nor of his officers and crew. Whereupon, he requires me, notary aforesaid, to make his protest, and this public act thereof, that the same may serve and be of full force and value, as of right shall appertain. And thereupon, the said master doth protest, and I, the notary, at his instance and request do, by these presents, publicly and solemnly protest against winds, weather, steamboat Richmond, collision, sinking, etc., and against every accident, matter or thing had and met with as aforesaid, whereby or through means of which the said steamboat or her cargo already has, or hereafter shall appear to have suffered or sustained damage or injury, for all losses, costs, charges, expenses, damages, and injury which the said steamboat, the owner or owners of the said steamboat, or the owners, freighters or shippers of her said cargo, or any other person or persons interested or concerned in either, already have or may hereafter pay, sustain, incur, or be put into by or on account of the premises; or for which the insurer or insurers of the said steamboat, or her cargo is, or are, respect*fully* liable to pay or make good by contributions or average according to custom, or their respective contracts or obligations; and that no part of such losses or expenses already incurred, or hereafter to be incurred, do fall on him, the said master, his officers and crew.

United States internal revenue stamps to the amount of twenty-five cents affixed hereto and duly cancelled.

Thus done, at my office, in the city of New Orleans, aforesaid, this thirteenth day of February, in the year of our Lord one thousand eight hundred and seventy-two, in the presence of George Clark and L. C. Ivy, competent witnesses, who hereunto sign their names with said appearers, and me, notary.

N. C. SELBY, *Master.*
D. W. ENSINGER, *Pilot.*
THOS. HENRY, *Engineer.*
R. F. FULLER, *Clerk.*
D. C. HARKINS, *Second Clerk.*
M. C. LEVI, "
WM. HOLTSCLAW, *Engineer.*
D. TRUEMAL.
T. FUGIT.
THOS. J. HARRISON, *Pilot.*

Original signed:
GEORGE CLARKE,
L. C. IVY.

EDWARD IVY,
Notary Public.

1063 I hereby certify the foregoing to be a true copy of the original act of protest extant in my current register. In faith of which I hereby grant these presents under my signature and seal of office, at New Orleans, this sixth day of April, eighteen hundred and seventy-two.

EDWARD IVY,
Notary Public.

Cross-examined by Mr. EGAN:

The two pilots of the Sabine dictated the protest to me in the presence of the captain of the Sabine; don't think anybody else said anything about it; some of those who signed the protest were present; don't know their names; it was read over to all those who signed it. I believe I read it to all those who signed it, but am not positive; either me or my partner, Mr. Ivy, read it. I think I wrote it from notes taken and they came up and signed it afterwards. The object of this protest is only to show loss and the cause of this disaster, and not to go into any particulars; it can be amended any time within a year; there may be facts omitted, and, in that case, an additional protest is drawn; but that is always a separate document. This is the custom prevailing in all commercial communities. I drew the protest of the Richmond; it was dictated by the pilots and captain together; the protest of the Richmond was read to the parties signing it before they signed it.

Witness says he will furnish a copy of the same on Monday morning.

Redirect:

A protest is extended, not amended, as I stated above; the original protest cannot be changed at all.

The narrative of the protest as made by the person executing it, whether general or minute, is given as a truthful statement of the occurrence, and are sworn to as such by the parties making it. I will state further that any omission that these parties may make or anything they may forget, can be remedied by ther making a further extension.

GEORGE CLARKE.

Sworn to and subscribed before me, May 25, 1872.

K. LOEW,
U. S. C.

1064 SARAH C. SHIRLEY ET AL.
versus
STEAMBOAT RICHMOND. } No. 9822.

MERCHANTS' MUTUAL INSURANCE COMPANY et als.
versus
STEAMBOATS SABINE AND RICHMOND. } No. 9823.

Testimony in behalf of Steamboat Richmond, taken before K. Loew, U. S. commissioner, this 28th May, 1872.

Present, Billings & Hughes, for Steamboat Richmond; B. Egan and R. H. Marr, for Steamboat Sabine.

JAS. LUSK, being first duly sworn, says:

I reside at Algiers at present; am a ship carpenter and steamboat builder, and have been in that business over thirty years; have ex-

amined the steamboat Sabine three different times after she was sunk, some time after she was raised. I first examined her at Twelve Mile Point, her head being then out of water, towards the shore. The second time it was a few days after she was brought to this city, at the foot of Thalia street, and the third time about a week afterwards, on a Sunday. All of these examinations were made during the month of February, 1872.

These examinations were made in reference to an injury which
1065 the boat had sustained. I had a full and fair opportunity to examine her the last time.

The shape of the wound on deck was about two degrees under a right angle. The wound in the hull was cut from the forward part, near the forward part of the wound, and was broken aft—everything was carried aft—mashed in aft from the foreward part of the cut. When the Richmond entered the Sabine—if it was the Richmond that did it—it carried the upper part of the hull aft so that the planks and timbers of the hull laid quartering across the Sabine in a angle of near forty-five, that is, they were crushed in. What was left forward of the point where the timbers were cut was pressed out. From the outer part of the guard to where the deck was broken there were from sixteen to seventeen feet. The capstan was pressed down almost directly aft of the wound, so that the cogwheel pressed through the deck. The aft edge of the warping chock, as far as the guard was broken or mashed in, was about twenty feet. Fourteen or fifteen feet of the wound was made up of timbers that were mashed.

The upper part of the timbers of the hull were hanging to the timbers that were pressed in. All the aft part of the wound, as well that on the deck as that on the hull, was of the same general character; i. e., the timbers were pressed aft and forward.

The wound in the hull, as near as I can tell, was from fourteen to fifteen feet, following the circle of the hull.

Look at claimants of the Richmond, picture No. 2, and state whether the same accurately represent the wound in the stem of the Sabine as you saw it (mark, if you please, with this red pencil, that part which you say represents the side of the wound that was crushed in.)

The red line I now make gives it as near as I can judge. The picture does not give as full a view of the part that was mashed in as a man could see it in the boat itself.

Picture No. 1 represents the same general character from a different stand point; the timbers in the aft part of the wound were pressed in, and in the forward are pressed out.

Photograph P P represents the same general character from a different standpoint.

1066 The cause of the break at the red line in photograph P P, was caused by the forward end of the plank being mashed in and forcing the aft end of the plank out—that being a butt in the timber.

I examined the break thoroughly, and my judgment is, and I am satisfied thoroughly in my judgment, that the steamer Sabine run across the bow of the Richmond striking herself aft of the warping chock, and cutting herself through to make this damage, to cause this damage.

My judgment is, that to bring that side back that's mashed in, to its original place, that it will meet the plank forward that it's cut off from.

Question. Is this a blow that was caused by a boat coming substantially at right angles to the Sabine, or a side blow, or in what direction was it made?

(Objected to by proctors for steamer Sabine.)

Ans. It was a side blow of the Sabine running across the bow of the Richmond, and a little less than a right angle.

The reason why the aft part of the wound was pressed in and the forward part pressed out is, she passed in the bow of the Richmand and the collision caused the two boats to swing together, and the Richmond's bow swinging out pressed those forward timbers out and the aft timbers in; coming out on the outside of the wound she pressed the aft timbers in.

I have examined the Richmond and helped to repair her. I remember the shape of the bow of her hull. I should judge the width of the deck of the Richmond seventeen feet aft of the jackstaff including her guards, to be twenty-five feet, probably a little over; from twenty-five to thirty feet, I should say, though I never measured. Bearing in mind the shape of the bow of the Richmond and the character of the wound in the Sabine, I don't think that the Richmond penetrated more than eight to ten feet into the Sabine.

Question. You have said that the wound of the Sabine was seventeen feet deep, and that the Richmond did not penetrate more than eight to ten feet; what, in your opinion, caused the break beyond the eight or ten feet?

Ans. It was caused by the sweeping blow of the Sabine against the Richmond—aft tearing the beams and decking—carrying them
1067 aft and bringing them on the centre of the boat. I examined the nigger engine of the Sabine, and found her in very good condition, and it did not appear as if it had been struck by anything, standing in its proper place. The engine was on the larboard side, main kelson and centre of the boat. I suppose it stood clear of the larboard some ten or twelve inches. I examined the main kelson, and it was not injured a particle. I examined the block on which the spindle of the capstan rested; it was tripped out of the saucer which rested on the block, but the block itself was not injured. This spindle was not bent. The spindle was standing quartering on an angle of forty five to the deck. In my judgment, it was caused by the timber breaking and shoving aft at the time of the collision. I examined the stem of the Richmond after the accident.

This stem was knocked to the starboard three inches at the top of the stem. The stem is made out of oak ten inches by fourteen. There was an iron stem bend fastened on the forward part of the stem three inches by four. It was displaced to the starboard and forward—three inches to the starboard and two and a half forward. When I say that it was displaced forward, I mean that it sprung forward. This was caused by a side blow; no other blow could give it. It was caused by a blow from the larboard to the starboard.

Question. Do the injuries respectively sustained by the two boats indicate a side blow such as you have already described?

(Objection to by procters for Sabine as leading.)

Ans. They do in every particular; they could not have been occasioned in any other way, as far as my judgment goes.

Cross-examined by Mr. MARR:

Am not in the employ of Mr. McHaffie, nor was I in his employ when I examined the Sabine; I was, though, when I repaired the Richmond. When I first saw the Sabine she was laying head on to the shore, some two or three miles this side of Twelve Mile Point; I next saw her at the wharf in this port. The Sabine's outside hull was cut four and a half to
five feet to the bottom of the hull. I suppose the Sabine's hull,
1068 forward, was some six feet deep at the cut. Measuring from

the outer line of the hull of the Sabine, she was broken fourteen to fifteen feet. The nearest part of the break was about eight feet from the foot of the capstan.

The larboard bow of the Richmond did the injury that I saw on the Sabine. The stem and the larboard bow of the Richmond penetrated into the hull of the Sabine; the stem was the first part that penetrated, because it is very sharp. While the larboard bow of the Richmond was giving in, the starboard bow followed the larboard bow on the outside. Of course, if the larboard bow of the Richmond penetrated the Sabine, the starboard bow also penetrated, but it didn't strike anything; there was not a scratch on the starboard bow of the Richmond. If the starboard bow of the Richmond did not strike anything, it was because the obstructions had been cut away by the larboard bow.

My experience and judgment tell me that if the Richmond was under any headway at the time of the collision, there was very little of it, if any.

Question. If the Richmond had been receding, by what process could the stem and the larboard bow of the Richmond have been caused to penetrate the Sabine?

Ans. I want to know at what speed you mean she was receding. If she had been receding at the rate of a half a mile an hour she could have caused the damage done to herself by coming in contact with the bow of the Richmond.

Question. If the Richmond had been stationary and the Sabine had run across her bow, would not the effect of the contact of the two boats have been to tear off the guards and outworks of the Sabine from forward to aft, until the forward motion of the Sabine was stopped?

Ans. Not any more than it was done.

Question. What is the difference in the wound in the Sabine at the extreme outer part of the wound and the extreme inner part of the wound?

Ans. The way the planks were broken, there was very little difference; probably five feet.

Question. Was it wider at the outside than it was at the inside?

Ans. Yes, sir.

Question. How is it at the bottom?

Ans. It's not so wide at the bottom.

1069 Question. What is the difference in the width of the wound at the bottom in the hull at the outer edge of the wound, and the width of the wound in the hull planks and timbers as far inward as the wound extended?

Ans. I can explain it; it's not a sharp wound at the bottom; it's cut from forward gradually downwards to the aft part of the wound; there is only one point down there at the bottom of the wound. I might say that the width of the wound at the bottom was one foot. I might say that it was five feet. The timbers of the boat, cut off in the shape that they were, it shows about five to six feet on a line downward to the aft part of the wound; the narrowest part of the wound came to a point at the aft lower part of the wound.

Question. If you were to measure from that part of the wound which would be towards the stern of the boat to that edge of the wound which would be towards the stem at a point one foot outward from the inner extremity of the wound, what would be the width across?

Ans. I can't answer that question, because I can't understand it; the edge of the bilge kelson of the Sabine was cut from forward aft; I suppose that it was made by the stem bend of the Richmond.

Question. How far is the bilge kelson from the centre of the boat?

Ans. At that aft part of the wound, I would say it was from 8 to 9 feet from the centre of the boat.

Question. Suppose the boat had 36 feet beam, how many feet would be on each side of the bilge kelson at the point at which it was cut?

Ans. The bilge kelson has only one side; the question is not proper. I can't answer it; there is a bilge kelson on each side of the boat running from forward to aft.

Question. On a direct line measuring from the point at which this kelson was cut, how far was it from the outer edge of the hull of the Sabine on the starboard side?

Ans. There is five inches timber between that and the planks on the outside, that's all.

Question. If you were to drop a line perpendicular from the main deck of the Sabine to the point in the bilge kelson that was cut, and you were to drop another line perpendicular from the outer edge of the starboard guard of the Sabine, how far would it be across of the bow and of
1070 the line at the bilge kelson to the lower edge of the line dropped from the outer guard of the Sabine?

Ans. It's about 10 and 11 feet; somewhere in that neighborhood.

Question. Then by some means or another the stem bend of the Richmond reached a point some ten feet farther into the Sabine than at the point at which it began to enter the Sabine?

Ans. That is very easily explained; it is the flare of the bow that caused it; the flare of the bow of the Sabine. The stem of the Richmond is almost plumb perpendicular; the knuckle streak of the Sabine was struck; the lower edge of the knuckle streak was resting on the floor. I suppose the Sabine had two breast hooks and a light deck hook. I noticed part of the breast hooks; it was broken in two, the aft end quartering aft. I suppose the size of these breast hooks was three and a half inches by eight; very light, the break was across the deep way; the breast hooks were of oak timber apparently new; the timber didn't look very tough though. I examined it—some portion was good and some very inferior timber; it was reasonable timber. I helped to take out the stem of the Richmond and put in a part of a new one, this is called scarfing the stem. I think the piece of timber that we put on the stem of the Richmond was from nine to ten feet; there was no old break in the stem; there was no old baeak on the stem that we took off; it was so drawing off with the amount of the fastening that was in that we never could put it to its original place. I believe there were some tarred rope on the stem of the Richmond; as a general it's the same on all the boats; in some places this tarred rope filled up three eight's of an inch and in some places probably more.

Question. If the Sabine was running across the bow of Richmond and the head of the Sabine pointing towards the shore, would the effect of the blow have straightened the Sabine so that her stem would have been up stream and her stern down stream?

Ans. It would not; it could not be possible if her head was pointed to the right hand shore going up.

Question. If the head of the Richmond at the moment of the collision had been pointed to the right hand shore going up, and the Sabine had been crossing the bow of the Richmond so as to present the star-
1071 board side of the bow of the Sabine to the stem of the Richmond, which way must the head of the Sabine have been pointed?

Ans. I can't tell where they were nor where they laid.

(Question repeated.)

Ans. If the Richmond's bow was pointed directly towards the shore the Sabine, in crossing down between her and the shore, caused the damage.

(Question repeated again.)

Ans. If the Richmond's head was pointed towards the shore, the Sabine was pointing rather quartering towards the same shore.

Question. If the Sabine struck the Richmond on the larboard side of the Richmond eight feet aft of the stem of the Richmond, would the stem of the Richmond have penetrated the Sabine sufficiently far to have cut, with her stem bend, the bilge kelson of the Sabine?

Ans. Yes, sir.

Question. How?

Ans. The timbers of the hull of the Sabine struck the Richmond some eight feet aft of the stem of the Richmond and broke a plank out of her larboard bow.

Question. When the Sabine came in contact with the Richmond, at a point eight feet aft of the stem of the Richmond, the stem of the Richmond must have been forward of the point of contact, was it not?

Ans. Yes, sir.

Question. How are you going to get the stem of the Richmond back to penetrate to a point five feet aft of the stem of the Sabine so that the stem bend of the Richmond went into the bilge kelson of the Sabine?

Ans. Well, there is a circle to the boat, and she struck the Richmond in that circle; the Richmond passed through her quartering and brought herself in so that her stem struck the bilge kelson.

Question. With that state of things would not the stem of the Richmond have got around to the larboard side of the Sabine?

Ans. She could not.

Cross-examined by Mr. EGAN:

I believe a right angle is a square.

Question. Do you know how many degrees there are in a circle?

Ans. Am not a scholar and I don't think that I ought to answer such questions. I know what an expert is, but I don't think that
1072 I am one. Have never been paid a cent by the Richmond for services that I rendered in examining the Sabine; I never made a charge for it and don't expect ever to get anything for them. McHaffie paid me for my services in repairing the Richmond. The butt of a plank is the point of contact of two planks; it is usual in carpenter work never to allow two consecutive butts of planks to come together on the same frame.

(Being shown photograph P P, says:)

My impression was that the shadowy irregular line to the right of the red line was a butt; but, on examining it again, I think it is a break sprung out. I saw it when I examined the wreck, and I can't recollect whether it was a butt or a break.

JAMES LUSK.

Sworn to and subscribed before me, May 28, 1872.

K. LOEW,
United States Commissioner.

District court of the U. S., district of Louisiana.

I certify that the foregoing 609 printed pages together with the 211 pages additional, bound as vol. 1 separately from the present vol. 2, for

the convenience of the court & counsel, by reason of the record being very voluminous, contain a complete & correct transcript of the original record in the consolidated cases of Sarah C. Shirley & al. vs. St'm'r Richmond, & the Merchants' Mut. Ins. Co. & intervenors vs. St'rs Sabine, Richmond, No. 0822 & 9823 of the docket, excepting the plans, diagrams & photographs mentioned in my certificate to vol. 1 as accompanying the transcript in original.

In faith whereof I hereto set my hand and seal of our court, at New Orleans, this 18 August, 1873.

[SEAL.] (Signed) K. LOEW,
D'y Clerk.

(Indorsement on cover:) No. 344. The Steamboat Sabine & Edward T. Parker, public adm'r of Sarah C. Shirley, dec'c, America B. Selby et al., appellants, vs. The Steamboat Richmond & Nathaniel S. Green, John N. Boffinger et al. Louisiana C. C. U. S. Filed 7th November, 1877.

REC. 344—35

OFFICE SUPREME COURT U.S.
FILED
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JAMES H. McKENNEY, Clerk.

United States Circuit Court

S. C. SHIRLEY, ET ALS.,

vs.

STEAMER RICHMOND.

Brief for libellants and their sureties on Exception to Commissioners' Report, assessing damages in favor of the Steamer Richmond.

BENTINCK, EGAN and
R. H. MARR,
Attorneys.

Clark & Hopkins, Book Printers, 118 Gaylor St.

United States ~~Circuit~~ Supreme Court.

S. C. SHIRLEY, ET ALS.,

versus

STEAMER RICHMOND.

Brief for libellants and their sureties on Exception to Commissioners' Report, assessing damages in favor of the Steamer Richmond.

The facts of the case as shown by the record are that, about 2½ A. M., on the 11th of February, 1872, the Steamer Richmond bound on a voyage to St. Louis, ran into, and sunk the Steamer Sabine, while on a voyage from Camdem, Arkansas, to New Orleans, just under 12 mile point. In doing so, the Richmond sustained some little injury herself, consisting of a twisted stem, a broken outrigger, and a small hole in one of the planks of her hull; all of which were repaired by Jessee McHaffee, at an expense of $517; this insignificant claim has been swelled into the enormous sum of 7,392, as allowed by the commissioners' report, exclusive of costs, exceeding $2000. To show that we are correct in the statement of the injury sustained by the Richmond, we will quote from the 7th Article of their cross libel. "The Richmond at the time

still heading for the left shore under the point, and backing on both engines. when the Sabine struck her with the sarboard quarter, on the Richmond's larboard quarter, about *10 feet from the stem of the* Richmond, the bow of the Sabine scraping the side of the Richmond, starting the stem of the Richmond, *breaking a knee, a plank stove in, and doing other damage to the* Richmond.

From this allegation the Sabine's starboard quarter, struck the Richmond's larboard quarter, about 10 feet aft of her stem, scraping the side of the Richmond, breaking one of her knees, and stove a hole in one of her planks.

McHaffee says, page ~~124~~ 411 of claimant's testimony, ~~blue book and their own witness~~. Ques. Have you had anything to do with the repairs of the Steamer Richmond growing out of the collision between the Richmond and the Sabine? Ans. Yes sir. Ques. State what repairs you put on her? Ans. We put in a portion of a new stem, and put up the old knee again in its place, put on 21 outriggers, and repaired the deck, put three guard stauncheons, and repaired the glass frame forward that holds the Jackstaff, and put one dock under her; there was a hole about the size of your fist shoving right through on the larboard side of the Richmond. Ques. How much was the bill for repairing the Richmond. Ans. $517, that was for temporary repairs, so that she could go up the river.

These were the only repairs that the claimants ever put upon her, there were none made at St. Louis, or any place up the river; but they produce receipts signed by

McHaffee for $1050; the first of these receipts is for $200, on account, dated 21st of February, 1872; the second is dated on 23d of February, 1872, for $317; purports to be in full for dock and carpenter's bill on steamer Richmond, so far it corresponds with his testimony; the third and last is dated on the 25th March, 1872, for $500, as balance due for repairs on steamer Richmond.

This last receipt is simply a fraudulent one, and was evidently procured to cover the claim in the cross-libel, as we have shown by Mc Haffee's testimony; he made the repairs for $517; his receipts show that he received that amount. McCord, the clerk of the Richmond, and a witness for claimant says, Record, page ~~250, Blue Book~~ 131, Ques. Who repaired her? Ans. McGuffey, (meaning McHaffee). Q. Do you know what he charged for the work? A. Yes sir, I have a memorandum of the amount here, (producing paper), his bill was $517 for the work he did, I have not got a copy of the bill.

Patrick Kane, a deck-hand on the Richmond, claimant's witness, says, blue book, page ~~201 and 202.~~ 467 Q. Between the place where you stood and the stem of the Richmond, was it all open, was there anything between the place you stood and the stem of the Richmond? Ans. Nothing but the stages; I had been ordered to put nothing there because she was broke down at the bow; McCord told me not to put anything there.

This would go to show, that the repairs made by Mc Haffee, and for which he was paid $517, were more than sufficient to repair the injury sustained by the Richmond

in the collision. Mr. Robinson, Jr., one of the insurance inspectors, estimates the cost of these repairs at between 500 and $600. See his testimony before commissioner, in manuscript, R. p. ~~85.~~ 118

James H. Lynch, page ~~101~~ 121 & 122 of same manuscript, says in substance: Am a master ship-carpenter, have been in the business in New Orleans for the last fifteen or sixteen years, and have been altogether in business the last twenty four or twenty-five years; kept a ship yard; am familiar with the business of repairing ships; have carefully examined the survey made by the two Robinsons, filed in this cause, as to the damage sustained by the Richmond in the collision with the Sabine. He then goes on to give the cost of the bow dock, the character and description of he timber required, its cost, (*the survey called for but two new out-riggers,*) McHaffie put in twenty-one; here we are charged for nineteen not injured by the collision, ~~page 102.~~ By putting two or three men at work it would have taken one day, after the dock was pumped out; he then gives the wages of the men, ~~page 103.~~ It would take half a day to sink a dock, (this would make but one and a half days, to have completed the work). I would have undertaken it for $300, a big price to repair the damage as shown by the survey. I had a ship yard at the time, and have sometimes twenty or thirty men in my employ, that is not all the time, but according to work. I am also interested in vessels and schooners as owner; have been interested in five or six. The survey referred to by Lynch, will be found at pages 122 & 123 ~~105 to 107~~, of same manuscript; it

was made by Capt. R. L. Robinson, Sr., and R. L. Robinson, Jr., on the 15th of February, 1872, at the request of Capt. N. C. Green, master of the Richmond. It states by request of Capt. Green, and on the day above written, (14th of February, 1872), held a survey of the Richmond, and after a careful examination, reported as follows: the stem is started forward at the head about five inches from the hud ends, and driven slightly over to starboard, and has been more or less started as far down as can be seen, and a piece broken out of the port side of the stem, so that it must be taken out as far down as the scarf, which is now about the water line (Mr. Lynch describes this scarf fully, and has given a diagram of it, which will be found at page ~~110~~ 127; on page ~~109~~ 123, he says the scarf is two square pieces of wood where they butt the two square ends together, and cut a scarf; it is to strengthen the wood connections, ~~page 111.~~ Its object is to make a sweep in the stem, by putting two or three pieces). (In other words, to give the stem a curve by making it with several pieces, consequently one piece might be taken outwithout disturbing any of the others).

So that it will be necessary to put a low dock under her to take out the broken stem, examine the lower part, and caulk where necessary. One of the fore huds had been broken in, on the upper side, so that about four feet of it has to be taken out, and new put in, 3 by 3 inches. One stack knee on the port side has been knocked down, so that the bolt must be cut, the knee taken off, refastened and put back to its place, rebolted and secured again.

Two outriggers on the port side broken, to be taken out, and new put in, 6 by 16 inches, 14 feet long. Three boiler deck stauncheons 17½ feet long, 9 by 10 inches. Two braces which support the upper cross-pieces of the jack-staff, knocked out and must be replaced again, and hud ends and seams each side of the stem recaulked and payed as before.

(Signed) R. L. ROBINSON, JR.

New Orleans, 15th Feb., 1872.

This surveyor shows that the damages sustained by the Richmond were very slight, and corroborates the testimony of Mr. Lynch as to the cost and time necessary to make them. We should, therefore, reduce this item in the commissioner's report from $1050, to $300. This would be a very liberal allowance for repairing the injury. Since McHaffie charged them $517, as we have seen above, and put in twenty-one outriggers—that is nineteen more than the survey called for, they were probably put on the other side since Robinson's survey makes no mention of them; they were merely called upon to survey the damages caused by the collision, and Green, the master of the boat, must have pointed them out to him.

Wages of crew, $1750 claimed; $1750 allowed.

There is no testimony in the Record to support this claim, except J. F. McCord's, Clerk of the Steamer Richmond, and thirty-three due bills; these due bills are for wages of the crew, from various dates from the 2d to the 17th of February. They foot up but $1168 50—it will

be found, annexed to the vouchers, he claims that there were some others amounting to $583 51 paid that no vouchers were taken for. $209 of this was for wages of two watchmen from 18th of February to 22d of March; the boat was libelled in this cause on the 16th of February; their answer and cross libel was filed on the 19th of February, and the vessel was in the custody of U. S. Marshal from the 16th of February, to the 22d of March. Consequently the claimants had no legal right to have any crew on board of her, and, therefore, no right to charge the libellants with the wages of the watchmen, after her seizure—the Marshal's costs must cover this item—he had the care and custody of her, and no other person had any right to interefere with him; a legal seizure divests the owner of possession while it lasts; this Court so decided in the case of the Steamer Southerner, where the Marshal was held to be responsible for the value of the vessel, destroyed by an accidental fire, while the owner and his family were on board. Again, the Richmond arrived in New Orleans on her trip from St. Louis on the 1st or 2d of February, Boffinger 37. 139 She left again on the evening of the 10th of February, consequently she must have been lying in the Port of New Orleans for eight days; now she had her down cargo to discharge, and the business in connection with it to transact, such as taking care of it, delivering it, and collecting freight bills, etc. It is, therefore, fair to presume that of these eight days, four of them at least, must have been devoted to the business of the down trip, which would make the up

trip commence on the 7th of February. This rule has been repeatedly recognized, and may now be considered as a settled principle of law. Parsons on Shipping and Admiralty, vol. 2d, p. 65, says: if a ship sails to several places, but is lost before the voyage is completed, wages are due to the last port of delivery, or, as we should hold, to the last port of arrival, and for half the time she lies in that port, the other half being considered as belonging to the subsequent voyage, and before the wages for that voyage was earned. See also note 4, and authorities there cited.

Caukling's Admr., vol. 1, page 144, 2d Ed., 1857, says: Wages on outward and homeward voyage are divisible, and if the ship delivers her outward cargo, and is lost on return voyage, the outward freight having been earned, the seaman are entitled to wages on outward voyage.

Strictly the outward voyage ought to be deemed to continue as long as seamen are engaged in purposes connected with the outward voyage, and the homeward voyage to begin when acts are done, or preparations made having reference exclusively to the homeward voyage, but in many cases it is not practicable to thus divide the time accurately, because it frequently happens that acts are done and proceedings are had simultaneously with reference to both the outward and homeward voyage.

With a view to this practical difficulty a rule has been established, that one-half the time during which the vessel is laying in the port of delivery, shall be deemed a part of the outward, and the other half part of the homeward

voyage. If, therefore, a vessel be lost on the homeward voyage, wages are due for the outward voyage, and one-half of the time of the stay in the foreign port, one-half of the time during which a vessel is lying in Port are deemed to belong to the outward voyage, and the other half to the homeward. Pittman vs. Hooper, 3 Sumner, 288; Rond vs. Hercules, 6 Hale Law Journal, 21; S. C. U. S. Law Journal 145.

Nearly all these due bills embrace wages earned previous to the 7th of February, and it would be an extremely difficult matter to separate them. They appear to have been put in to create confusion, and cover the claim contained in the cross libel. This is but a sample of the many acts of the cross libellants, to swell their pretended claim. The law required them to make their claim certain, and confine it to the damages they were entitled to recover. We have seen that in the matter of the dock bill they attempted to more than double the amount actually paid, to make it fit the item claimed in the cross libel.

But from the statement of McCord, on cross-examination, we have some data to go by in regard to this item for crews' wages, on p. ~~120 to 131~~ 85; he enumerates the several officers and crew of the boat, and gives the monthly wages of each; from this statement we make the whole amount to $4040 per month, when under way, this would be at the rate of $134 per day. He says, ~~on page 131,~~ that it would be from $150 to 125 a day, assuming that it was $130 a day, and that the Richmond was entitled to

the wages of her officers and crew, they would commence on the 7th, when she commenced taking in her cargo for the voyage to St. Louis, or rather with the commencement of that voyage which must have been on the 7th of February, and it should have ended with the completion of the repairs, provided there was no necessary delay in making them.

We have seen from the testimony of Lynch, quoted above, that they could have been completed in one day and a half, allowing two days, they should have been completed on the 13th February. There is nothing in the record to show positively when they were commenced, or when completed. Both Boffinger & McCord, think they were going on when the boat was seized, which was the 16th February, but there is no certainty in this.

Their testimony consisted almost entirely of what they thought, expected or believed, without anything positive or certain. Boffinger was not employed on the boat, and knew very little about her or her business, and got his information from McCord, who was clerk, and did not trouble himself with the affairs belonging to the other departments of the boat. But assuming that the repairs were commenced on the 12th, the first working day after the arrival of the boat, they should have been completed according to Lynch's testimony, on the 13th, this would make 7 days, at $130 perday, $910. This would be something more than the actual amount, as the cabin and deck crew were discharged on the evening of the 11th February, two days before the day on which the repairs

were completed, or rather should have been completed; again, they are not generally shipped until the day of departure, their wages were over $1700 a month, that is something more than $56 per day; we might, therefore, safely take off $300 on this account, which would leave this item $510, for wages of crew instead of $1750, as allowed by Commissioner's Report.

Fuel $500, claimed, $500 allowed. There is no testimony in the record in support of this item, except the belief of Boffinger, one of the cross libellants and an interested party; he was not on the boat, and knew nothing about it.

There is a certificate of a coal merchant, that the Richmond purchased a quantity of coal in February, but he does not pretend to certify as to when, where, or how she used it; but this cerificate is not entitled to any consideration; there is no law authorizing a coal merchant to give any certificate; the party giving it ought to have been produced as a witness. We might have been able to show by him that this coal was returned, or that the boat used it on her voyage in March. Robinson, the Inspector, says there was no necessity for keeping up steam while undergoing repairs, except on the doctor, which would not have taken more than 10 or 20 bbls., worth 85 cents per bbl., p. ~~89~~ 121. Allowing 20 bbls. per day for two days, 40 bbls., at 85 cents, $34; we must, however, add to this, coal used in running to 12 mile point and back. On p. ~~128~~ 131, McCord says she burned on some trips 500 boxes of coal in 24 hours; it would take 3 hours to go to 12

mile point and back; she lay there, however, some hours, but as she was not running, she could not have used much coal, we think 100 boxes would be a liberal allowance, this, added to the 40 boxes while undergoing repairs, would make 140 boxes, at 85 cents per box, would be $119 for fuel. This would certainly be a very liberal allowance for this item, if they are entitled to recover it.

Bow dock and repairs this item we have fully reviewed above, and put down at $300.

Wharfage $110 claimed, $45.60 allowed. This item has been improperly allowed; there is no testimony in support of it, except a certificate from J. G. Brown, Administrator, that the steamer Richmond paid on the 11th of March, 1872, to the City of New Orleans, $115, for 23 lay days, at $5 per day. The claim is for $110, and was filed on the 19th of February, 1872. See cross-libel. This certificate is for $5 more than the claim; the Richmond could not have been laying in port 23 days previous to the seizure, which took place on the 16th. Brown had no authority to grant the certificate, nor does it show when these lay days commenced or when they ended. If they were after the seizure, and while the boat was in possession of the Marshal, they were paid and charged as costs; see his bill annexed to Commissioner Shannon's report on costs and damages. The wharfage is there charged at $117, and was paid out of the proceeds of sale of the steamer Sabine in the registry. Again, they are not the damages caused by the collision, and which were referred to the Commissioner to report upon, but the damages

growing out of the seizure, which must be made the subject of a separate suit, if, indeed, they could be recovered at all. The only wharfage that could be recovered, would be from the 7th until the repairs were, or ought to have been, completed, which we have shown above was the 13th of February, 1872; this would be 7 days, at $5 per day, would make $35. But the claimants, with a number of others, brought suit against the City of New Orleans for this wharfage, contending that the ordinance imposing it was unconstitutional, and it was so decided by the Supreme Court of the United States. See Cannon vs. the City of New Orleans, 20 Wallace, 577. Boffinger admits, pp. 60 to 73, 141 that they recovered judgment against the city for this wharfage $116,000 that it was compromised by the city for $80,000 of which the lawyers got $30,000 and he received certificates from the city for 43 per cent. of what he paid. According to the decision of the Supreme Court, the ordinance was unconstitutional and illegal. It is, therefore, not a legal charge against the libellants, since it was not a legal charge against the steamer Richmond. This, we believe, disposes of this item.

Stores consumed, $600 claimed, $600 allowed. The testimony in support of this item is of the most unsatisfactory kind. It was in the power of the cross-libellants to have made it certain, by producing duplicate bills, or the merchants from whom the stores were purchased, but nothing of the kind was done. They preferred resting their case upon the loose statements of McCord, who had no books,

papers or data of any kind, and whose testimony was given more than three years after the occurrence. The following is a fair sample of his testimony on this item, p. ~~99~~ 145. On leaving here, our stores amounted to *about* $800 on our books. The stores that we bought, we, after the seizure, turned over to the boat stores again; *some $200 worth of stores*, ~~p. 100~~, making about $600, consumed, as well as I can remember. The daily consumption of food while at the wharf would (not) be more than $20 or $25, but the store bill was made for the trip; but when we were seized by the Marshal (~~101~~ 146) they were in such a condition that they could not be returned, and the ice was gone; the destruction was caused by delay.

Now from the testimony of this witness, it is impossible to say what the store bill was, he does not pretend to give anything positive; he puts the whole bill *about* $800, and the stores returned about $200, making those consumed or lost, to fit the claim in the cross libel. This whole story is improbable on its face. The Richmond left on the 10th, returned on the 11th; what was there to prevent her from returning those stores on the 12th, why retain them on board, until the 16th, the day of the seizure, and then return them? it was their duty to make the loss as light as possible, and the presumption is that they did so; he says they were mostly purchased from Kennett & Bell, but he does not know what the amount of their bill was; *he thinks* he returned them about $200 worth, as well as he can remember; has no data to show what he turned back, ~~pages 123 and 124~~ 152. Now these gentlemen could have

been produced as witnesses, their books would have shown to a fraction how much was purchased, and what had been returned; their testimony was the best that could be produced. They were not offered as witnesses.

The rule of law is well settled, that where a party does not produce the best evidence of which the nature of his case admits, nor accounts for its absence, it will be presumed that such evidence would be not favorable to his claims. Greenleaf on Evidence vol. 1st, Sec. 82; Loucelie vs. Loustein, 1 M. 611; Cockrell vs. Smith, 1 A. 1; Sturgis vs. Clough, 1 Wallace 270. The ice and fresh vegetables, were an insignificant portion of the whole store bill; they could not have exceeded $50, and were probably much less.

If we take the daily consumption while at the wharf, as the basis for this item, which the witness puts at $20 or $25, and allowing her 7 days, that is from the 7th to the 13th inclusive, when the repairs should have been completed, this item would be between $140 and $175; the lowest estimate should however have been adopted, considering that it was in the power of the cross libellants to have made it certain.

Loss of freight list $5000, loss of passenger list $600. These two items have been treated by the commissioner together, and $2150 allowed for both. With one exception these are the most fictitious claims in the record, and are wholly unsupported by any testimony; leaving out the questions, Boffinger states in substance, pages 84 and 85: The Richmond made money the first year we

had her, she never made it afterwards; she lost money the last year. Is not positive whether the first year they had her was 1871 or not, but it was somewhere about that; on pages ~~33 and 56~~ 134, he admits she was sold by the U. S. Marshal, at St. Louis, for $10,000 for debt, last fall a year ago; this must have been the fall of 1873, as his testimony was given in June, 1875. This testimony shows clearly that she was losing money instead of making it, and was actually sold for debt a little more than a year after the collision. McCord, clerk of the boat, says p. ~~112~~ 118: She had between 650 and 700 tons, consisting of sugar, molasses, etc., ~~page 113~~. Chaffraix and Agar, were the shippers of about one-third of the whole cargo, and were to give them 35 cents per 100 pounds; that was the lowest class of freight on the whole boat; page ~~124~~ 150, he says she had about 700 tons of freight, he gets at that from his knowledge of the boat, having been on her sometime, and the amonnt of money it came to, the receipts, ~~p. 125~~.

Q. How do you know the amount of money it came to when you never got any receipts for it? A. Because I had the bills of lading on board, and the rate of freight; ~~on page 152~~, he says the freight footed up some $5,200 or more, cannot tell the weight.

A simple reading of this testimony is sufficient to condemn it as unworthy of a moment's consideration. The freight was based upon the weight, the witness did not know the weight, the bills of lading did not show it, and it was simply impossible for him to tell the amount the freight would foot up without a knowledge of the weight; this

was the basis of any calculation upon the subject; and again, at one place he puts the freight at six hundred and fifty or seven hundred tons, in another place, at seven hundred, but has no data or guide to go by, merely basing his estimate upon his knowledge of the boat; he says he had bills of lading, and the freight footed up *some* $5000 or more; when the cross libel was made out, this item was put down at but $5000 by the same witness. See the claim annexed, and made part of the cross libel by article 10. If the cargo weighed six hundred and fifty tons, the freight at thirty-five cents per hundred, would be $4550, if seven hundred tons, it would be $4900, provided it was all through freight. Boffinger says, page ~~66~~ 139, that all the freight on the boat except the sugar, was way freight. McCord says, page ~~136~~ 132, all the way freight was shipped on the Howard, and all the through freight on the Commonwealth.

The sugar was one-third of the entire cargo, and paid thirty-five cents, the way freight must have been two thirds, and must have paid considerably less, according to the distance carried.

McCord, page ~~102~~ 146, estimates her passenger list at a little over $615 or $620. When drawing the statement for the cross-libel, more than three years before, he put this item at $600. See page ~~134~~ 132. On page 133, he does not remember how many passengers (she had) exactly, but about thirty; these people were distributed along from Baton Rouge to St. Louis; the passage to Baton Rouge was six dollars, to St. Louis, it was from twenty-five to thirty

dollars, and some thirty-five. Capt. N. C. Selby, who was on the Richmond from the time of the sinking of the Sabine, until the Richmond returned to New Orleans, Sunday evening, says, pages ~~23 and 26~~ 107 & 108, that he saw the passengers on the Richmond, thought she had between twenty-five and thirty, perhaps thirty; what makes him recollect so well, is because in talking to several of them who had to go to Baton Rouge, and were complaining much for having taken that packet instead of the steamer St. John. The St. John landed alongside of her and took the greater portion of her passengers off; does not think more than five or six came back to New Orleans. The St. John was a coast packet, running to Baton Rouge, This testimony shows clearly that the pretended loss of passenger list never took place. The Richmond did not have a sufficient number of passengers to make this item amount to $600, or anything near it. It is impossible to say what the passenger list was. If twenty-five of them went on the St. John, their passage at six dollars each, would amount to one hundred and fifty dollars. Some or all of the remaining five, might have been bound for some of the numerous landings between New Orleans and St. Louis. McCord, page ~~128~~ 161, says, she would go from here to St. Louis, in from six to six and one-half days of twenty-four hours to the day; has known her to go there in six days with five hundred tons of freight. Boffinger says, page ~~29~~ 132, six and one-half to seven days.

N. C. Selby, says page ~~30~~ 108, there was a report that the river was full of ice some place between Memphis and

Cairo about that time, may be a little before, page 31; and if they had proceeded up the river and met the gorge it would have prevented her from reaching St. Louis for some time. Both Boffinger and McCord, admit there was a gorge, but think it had broken up, Boffinger, pages ~~63~~ 139 and 64, McCord pages ~~137 and 138.~~ 152

Selby on pages ~~32 and 33,~~ 104 says that from the statements of the clerk of the boat, and the expenditures she was at, he cannot see how she could have made anything, but lost something. McCord, page ~~127,~~ 150 says her expenses were about $800 per day. This would make $5200 for six and a half days, without including wharfage at St. Louis, unloading, delivering cargo in St. Louis, and the wages of her officers and crew, for the other half of the day, as they could not be paid off with six days and a half, even supposiug that she made the voyage in that time, the expenses of 6 days and a half would be the same as 7; with the exception of some fuel and one or two meals to her passengers, her expenses for seven days would be $5600. To this must be added wharfage, and 25 to 40 cents per ton for discharging cargo. McCord's statement, p. ~~131,~~ 157 also the wages of her officers, discharging clerk, and some of her crew, together with their food, for several days, until this cargo was delivered. This would have swelled her expenses to more than $6400. The cargo alone, at 700 tons, would have cost from $175 to $280 to discharge, under the most favorable circumstances, the loss must have been very great.

In this we are borne out in a great measure by the

statements of McCord, at page ~~149.~~ 164. That it takes a very good receipt to pay an up trip expenses. The Richmond was a boat of over 2000 tons capacity. See Capt. Neal's testimony, as before Commissioner Shannon, and according to the testimony in this cause, she had not a third of a cargo.

But there is another view to be taken of these two items which would lead to almost the same result, but, probably, in a more satisfactory manner. The cross-libellants claim for loss of freight list $5000, and loss of passenger list $600. See statement annexed and made part of the cross libel by 10th Article. Now, this is the gross amount of the freight and passenger list, and not the profits, or gains, she would have made on the voyage; as we have seen above, she would be occupied from six to six days and a half, of twenty-four hours each, to make this voyage. She left the elevator at about 1 A. M. on the morning of the 11th of February, and, if she had not met the accident, would have reached St. Louis at 1 o'clock, P. M. on the 17th, that is assuming she made the trip in six days and a half; but her voyage commenced at New Orleans on the 10th of February, her crew's wages and nearly all other expenses, would include the whole of the 10th and 17th; this would make eight days, at $800 per day, $6400, to meet which they have but $5600 of freight and passenger list according to their own claim in the cross libel, this would show a loss of $800, and no gains or profits, but the loss would have been really much greater, as there was wharfage, unloading cargo, care and

attention to be bestowed upon it for several days after its arrival and before delivery, wages of all the officers and part of the crew, and their support, that would have swelled the expenses to probably $400 or $500 more and make the loss much greater; but, they pretend, they might have picked up something on the voyage in the shape of way freight and passengers, from $1500 to $2000. This is purely speculative; but the greatest objection to it, is that it is not and never was claimed in the cross libel. The claim in the cross libel, is, as we have shown above, for the *gross freight* and *passenger list lost*—that was the issue involved in the suit, and that was the matter referred to the Commissioner; the bond given by the libellants under the order of the District Court, was to respond to the damages claimed in the cross libel, and not the speculative opinion of the witness as to other damages, which he now pretends were sustained by the Richmond; there is no better settled principle in law than that the proof must be confined to the issue; the issue in this cause was the responsibility of the libellants for the damages claimed by the owners of the Steamer Richmond, as claimed in the cross libel, for the injury she sustained by the collision; it was this claim that the securities signed the bond for, and by the terms of their obligation, it can extend no further. See U. S. vs. Becker, 21 Wallace, 652 and 657. Damages are, properly speaking, the loss one has sustained, the profit or gains they have been deprived of.—La. C. C., 1928.

In the case at bar, the Court referred the matter to the

Commissioner, to report upon the damages sustained by the owners of the Steamer Richmond, and claimed in the cross libel; that claim was confined to the gross *freight and passage* money, and not the nett earnings. By law, they were only entitled to the nett earnings, but they were not claimed; if they had been, we have shown above that the boat could not by any possibility have made a dollar on the way, but must have sustained great loss, consequently the cross libellants have sustained no loss, and been depaived of no profit or gains, so far as these items are concerned; they should, therefore, be rejected.

Survey and protest, $40 claimed, $40 allowed. McCord says, p. ~~103~~ 153: he paid this item himself; the survey was unquestionably made, but there is no evidence that any protest was made; the clerk states that he paid the bill, $40, but there is nothing to show that the libellants are responsible for it or any other portion of it; it did not benefit the Richmond, and was wholly unnecessary; but if the libellants are liable for any portion of this item it could not extend beyond that portion which was actually incurred, to-wit: the survey, which could not have cost more than one-half of the whole item $20. There is a bill among the costs allowed by Mr. Shannon for $5, for copy of protest which was paid, but we think the whole item ought to be rejected, because the expense was unnecessary, therefore, not chargeable to the libellants.

Consumption of oil and rigging $100 claimed, $100 allowed. The only testimony bearing upon this item is McCord's, R. p. ~~103~~ 153; speaking of this item he says: That

was a mere estimate, I made myself at the time at $100; there was no way of arriving at these things on; p. 141, he says: That rigging is wasted when it is used, if it is not used it would not be wasted; p. 142, he says: when laying up the lines are all out and subject to be run over by drays. This item is a mere estimate, you could not reduce it down to so much damage done to the rigging in so many pounds by looking at it.

We submit that this testimony is insufficient to support this item for a dollar, the witness does not show the consumption of any oil or rigging, he has nothing to base his estimate upon, and appears to have put it down himself, without having been requested to do so by any person, p. 144. Again, the libellants have been charged for stores, the oil must be part of the stores, consequently they are covered by that claim. This item ought to be wholly rejected.

Loss of time while repairing boat $2250 claimed, $1157 allowed. This item is covered by the claim for loss of freight and passenger list which we have reviewed above. The boat would not have arrived in St. Louis had she continued her voyage until the 17th, probably the 18th of February; it would have taken her from one to two days after that, probably more, to deliver her up freight; she did not go however, but has claimed the gross anticipated receipts of that trip, as if it had been made. She, therefore, lost no time while repairing, because that time is already charged for in the two items mentioned above; again, she arrived in New Orleans on the evening of the

11th, after the collision; Lynch says the repairs could have been completed in one day and a half, assuming that it would have taken two days, and that they were commenced on Monday the 12th, they should have been finished on the evening of the 13th. Boffinger says, pp. ~~57 and 58~~ 58: he thinks the repairs were commenced on Monday or Tuesday, and that they were going on, on the following Sunday, thinks she was then in the Marshal's hands. McCord, p. ~~117~~ 129, says: the repairs commenced, as well as he can remember, the next morning after we got here, he supposes so, as he was not captain of the boat, he did not manage the repairs, p. ~~118~~ 129; does not know how long she was undergoing repairs, knows that they wanted to get away as quickly as possible, they were laying there with their trip on board; by that he presumes they were going on until the seizure; I know they were going on there, but whether they were going on at the time the seizure was made I do not know, ~~p. 119.~~ I think the seizure was made on Sunday the 16th.

The Commissioner says the time occupied in repairs is unsatisfactory. McCord does not know, but thinks it was six or seven days. Boffinger says it was nine days, and thinks they were completed on the 20th February; both, however, state they were not completed at the time of her seizure by the Marshal; the date given by Boffiinger, 20th February, is assumed to be correct. This is a mistake of the Commissioners. Boffinger's testimony, in the place referred to by the Commissioner, ~~p. 4, not 9, is~~ 129: She returned here on Sunday, the morning after the collision

occurring, (the testimony in other places shows that it was the evening, not the morning), the 11th of February; she completed her repairs, I think, on the 20th February. From the testimony of both Boffinger and McCord, which we have quoted above, it is impossible to say when the repairs were commenced, they think they were commenced on Monday or Tuesday following the collision, and Boffinger thinks they were going on on the following Sunday; this would be the 18th. McCord presumes they were going on at the time of the seizure, but does not know, and thinks the seizure was made on Sunday the 16th. Now, Sunday did not fall on the 16th, but the 18th, as the boat left on Saturday, the 10th, the collision occurred on Sunday, the 11th, the following Sunday must have been the 18th. This shows how unreliable the thoughts, belief and presumptions of the witnesses were, yet the Commissioner has allowed $1157, on this item, that is, for 3½ days at $330 10-13 per day from the 17th to the 20th of February.

But the record contains positive testimony to contradict both these witnesses as to the time these repairs were commenced. The survey of the Robinsons, quoted above, shows that it was made on the 14th, this was Wednesday, and they cannot well have been going on then, as the object of this survey was to ascertain what repairs were necessary. If the repairs were going on, the survey would have been a perfectly useless formality. But the boat was seized, and in possession of the Marshal on the 16th of February, and remained in his possession until the 22d of

March following. The cross-libellants had the right to bond her; they did not think proper to exercise this right until more than a month after her seizure, consequently, they lost no time while undergoing repairs, because it was not the injury or want of repairs that prevented them from using the boat, but the seizure by the Marshal under Admiralty process issued by the District Court in this and the case of the Merchants' Mutual Insurance Company against the steamboat Richmond; these seizures were continued long after the repairs were completed.

This item ought to be rejected

Parsons on Shipping and Admiralty, Vol. I, p. 543, says, that where the bills for repairs were exaggerated with the knowledge of the master of the vessel, the District Court reduced the amount to the lowest estimate, the decree was confirmed by the Circuit Court, and it was said that if it had appeared that this fraud had been committed with the knowledge of the owner of the vessel, nothing should have been allowed, and that as a general rule, owners must be held responsible for such acts of the master. See the Sampson, 4 Blach, C. C. 28.

In the case at bar, we have shown above, that all the bills of the cross-libellants in this cause have been exaggerated to such an extent that it is a difficult matter to find what is really due them; and that this was done by the master, who was a part owner; and applying the principles laid down in the case of the Sampson, quoted above, they are entitled to nothing.

For these reasons, we respectfully ask that the excep-

tion to the Commissioner's report in this cause be maintained, and the cross-libellants' claim entirely rejected.

Respectfully submitted,

BENTINCK EGAN and
R. H. MARR,

Attorneys.

SUPREME COURT U.S.
FILED
OCT 26 1880

Supreme Court of the United States.

SARAH C. SHIRLEY ET ALS., OWNERS OF STEAMER SABINE,

vs.

STEAMER RICHMOND.

Brief on behalf of Plaintiffs.

R. H. MARR, and
BENTINCK EGAN,
For Libellants.

Clark & Hofeline, Brief Printers, 112 Gravier Street.

Supreme Court of the United States.

SARAH C. SHIRLEY ET ALS., OWNERS OF STEAMER SABINE,

VS.

STEAMER RICHMOND.

Brief on behalf of Plaintiffs.

STATEMENT.

This suit is for damages sustained by the owners of the steamer Sabine in consequence of the steamer Richmond running into and sinking her between 2 and 3 o'clock on the morning of the 11th February, 1872, about twelve miles above New Orleans, on the Mississippi river, while she was descending the river with a valuable cargo of cotton, etc., by which the boat and her freight were entirely lost to the owners and a portion of her cargo.

The facts of the case are: the steamer Sabine, a stern wheel steamer of the burden of four hundred tons and about two months old, left Camden, Arkansas, about 4 o'clock on the evening of Monday, the 5th February, 1872, bound on a voyage to New Orleans, having part of her cargo on board; and procured on her voyage down, at various intermediate points, cotton, hides and bees-wax, equal to about fifteen hundred and seventy-one bales of cotton and fifteen passengers, fully manned and equipped, with skilful pilots and officers in charge of the boat. That on Sunday morning, 11th February, 1872, between the hours of 2 and 3 o'clock, A. M., the night being clear and starlight, when at or near Twelve Mile Point, above New Orleans, on the Mississippi river, while the steamer Sabine was proceeding on her voyage to New Orleans, and in the usual and customary channel for descending steamers, and when turning Twelve Mile Point, the pilot and the mate of the steamer Sabine, who were on watch at the time, saw the red signal light of a steamer distant about one mile, and deep in the bend on the right bank of the river, an unusual place for an ascending steamer, and immediately afterwards gave two blasts of his steam whistle to keep to the larboard, to which he received no answer; he then slowed his engines, and shortly afterwards he gave two more blasts of his steam whistle, which was crossed by one from the ascending steamer. At this time the boats were not more than three hundred yards apart, and the pilot of the Sabine had stopped and

reversed his engines, and commenced backing strong, and pulling his wheel to the starboard, in order to keep the ascending boat, which proved to be the steamer Richmond, a large and powerful vessel, of about two thousand tons burden, bound from New Orleans to St. Louis, but at the time of the collision coming square across the river, with her head slightly inclined down stream, from running into the Sabine: notwithstanding which the Richmond ran into and struck the Sabine with her bow on the starboard side, between the derrick and forward chock, knocking overboard a large portion of her cargo, consisting of cotton, about seventy-five bales of which fell on the larboard guard of the Richmond, the bow of which, after glancing a few feet forward from where she first struck, caused by the resistance of the cotton on the Sabine, penetrated the hull of the latter for a distance of seventeen feet, knocking off the wood work of the spindle of the capstan, which was to the larboard of the middle of the boat, going through large quantities of timber and some iron, and making a hole fifteen feet wide by seventeen in depth, tapering as it went in, until it became a perfect model of the bow of the Richmond for a distance of seventeen feet from her cut water below the guards. *That there was no person on watch on the roof of the Richmond at the time of the collision,* and about five minutes after she pulled out or backed from the Sabine, the latter filled and sunk; and after drifting down about a mile and a half, finally settled in about twenty feet of water, by which she was entirely lost to her owners. That at the time of the collision the Sabine had just straightened up, heading down the river parallel with the left bank, under Twelve Mile Point. That the officers and crew of the steamer Sabine did everything in their power to avoid a collision; and that it was due and owing entirely to the gross and culpable negligence and want of ordinary care and skill on the part of the pilot and officers of the steamer Richmond.

ASSIGNMENT OF ERRORS.

The Circuit Court erred in rendering a decree dismissing the libel of appellants against the steamer Richmond, and sustaining the cross-libel of the owners of the Steamer Richmond, and also in dismissing the libel of the Merchants' Mutual Insurance Company and other intervenors against the steamer Richmond and owners, and sustaining their libels against the steamer Sabine and owners, and also in conforming the report of the commissioner on question of damages sustained by the steamer Richmond, because the evidence in the record is clear and positive that the steamboat Richmond was in fault in seven different particulars, and alone responsible for the consequence of this most disastrous collision, and that the officers and crew of the steamer Sabine did everything in their power to avoid it.

First. The steamer Richmond was in fault in not answering the first signal given by the Sabine of two blasts of the steam whistle, they were then from half a mile to a mile apart.

Second. The steamer Richmond was in fault in crossing by one whistle the second signal of two whistles given by the steamer Sabine, as the Sabine being the descending boat had by Rule I for the government of Pilots of steamers navigating the rivers flowing into the Gulf of Mexico and their tributaries, adopted by the board of supervising Inspectors, under Act of Congress, approved February 28th, 1871, the right of way, and the Richmond as the ascending boat must govern herself accordingly, and the pilot of the Sabine had a reason for giving this signal, because he saw the Richmond deep in the bend, on right bank of the river to his left, an unusual place for an ascending steamer, and was prohibited by Rule IV from attempting to cross her bows.

Third. The Richmond was in fault by Rule II in not stopping and backing her engines immediately, instead of crossing the signals given by the steamer Sabine, thus calling for the same side blown for by the Sabine, and as the boats were then at least half a mile apart there was ample time to have stopped her and thus avoided a collision.

Fourth. The Richmond was in fault in having two red lights, one on the larboard chimney, and another on a jackstaff, on the hurricane roof aft of the chimney, and no green light on the starboard chimney, as required by Rule XVI.

Fifth. The Richmond was in fault in not having any lookout or officer in charge on the roof; the mate whose watch it was being in the cabin.

Sixth. The Richmond was in fault in following the Sabine into the left bank of the river from 150 to 200 yards, inside of the usual and customary track of an ascending steamer desirous of rounding 12 mile point, and *closer to that bank than the Pilot of the Richmond had ever seen a boat before*, and there running into and sinking her.

Seventh. The Richmond was in fault in coming square across the river with her bow at right angles with the shore when the steamer Sabine had signaled for it, *literally fled to the wall*, instead of keeping up the river on the right bank or middle, there being ample room for her to do so, as the river was from three-quarters to a mile wide at the place of the collision.

Eighth. The Sabine was wholly without fault, did everything in her power to avoid the collision, and had literally fled to the wall to avoid it.

Ninth. The Circuit Court erred in not maintaining the Exception, R. pp. 162 and 163, filed by appellants to the commissioner's report of damages claimed by the owners of the Rich-

mond in their cross-libel, the same being excessive and wholly unsupported by evidence.

ARGUMENT.

These facts are clearly established by the testimony to be found in the Record. We will quote from portions of it:

Thomas J. Harrison, pilot on watch on the steamer Sabine at the time of the collision, a witness for libellants, Record), page 207, says: While I was coming down, just above Twelve Mile Point, just before I came to the point, I saw a steamboat very deep in the bend, nearly opposite but a little below Twelve Mile Point, where it is very unusual for a steamboat to be coming up stream. I was at the wheel of the steamer Sabine. I blew my whistle for her twice, for her to keep the bend; I blew for the larboard side; she made no reply; I blew two more whistles; she answered by one whistle calling for the point; I could not give it to her, but stopped my boat and backed her up. She came right straight on after she crossed my whistle.

And again, he says: She ran into me and struck me on the starboard side, right about the cavil; right aft the jack-staff: it is between the derrick and the jack-staff; run right into the capstan, and we sank in five minutes. When we found we were sinking, I blew the signal of distress, and had to blow the second time before she replied; she came then to our assistance and took the passengers off; there were about seventy-five bales of cotton fell off our starboard side on her larboard.

This shows that the Richmond must have been heading a little down stream at the time of the collision, otherwise her larboard guard could not have come in contact with the starboard guard of the Sabine. This witness produces a plan or chart by which he locates both boats; and states that she (the Richmond) was at least a mile and a half above the usual crossing in the bend. And on pages 208-9, he says: I blew my whistle for the larboard side; to keep to the left, keeping down round the point: seeing her in the bend so very deep, I thought she wanted the bend, it being an unusual place for a boat coming up stream; I thought she wanted the bend, she being right there.

Question. How did the Richmond come that night?

Answer. Right straight across the river, as straight as a bee line for us.

Q. How far under the point were you when the collision occurred?

A. We had just cleared the point and just straightened down the river after making the point; this occurred right under the point: I run her right out on the head of the little bar that makes right under Twelve Mile Point.

Q. Which way was the Richmond's head pointing when she struck you?

A. Right straight for the bank under the point.

Q. How near were you to the shore when she struck you?

A. Two hundred or two hundred and fifty yards, as near as I could tell; it was night.

Q. The way the Richmond was coming, if she had not met the Sabine, what would have become of the Richmond?

A. She would have gone into the bank so hard that the Lee could not have pulled her off. "I heard a bell or gong just before she (the Richmond) struck us; she was then about a length or not so far." And on page 210:

Q. When the Richmond struck you, which way were you holding the head of your boat?

A. Right down stream.

Q. What effect had the blow on your course?

A. Slew us right round: threw our starboard and her larboard sides together. And again:

Q. How many people were with you at the time of the collision?

A. My partner, Mr. Ensminger, and the third clerk of the boat, a young man by the name of Levy. [The presence of these persons in the pilot-house at the time was explained in the testimony, one intended going home on the arrival of the boat and the other had just completed his work.]

Q. Where was the mate of the boat?

A. He was standing right forward on the top of the stage, as well as I can tell you now; he was right on the top of the cotton, forward; he hallooed to me, and asked: Are you backing, Tom? I said: I am and have been backing for sometime. It was the mate's watch. On page 212 he identifies the 3 photographs, No. 1, 2 and 3, as a correct representation of cut received by the Sabine in the collision, as she appeared after being raised and brought to New Orleans. He states that No. 3 gives the best view; on same and next page 213, that the bow timbers of the Sabine were as good as were ever put in a steamboat, and that the Sabine would have carried with ease two hundred bales of cotton more than she had without interfering with the handling or management of the boat; that the Richmond ran into her about the centre of the Sabine and shoved the capstan over; that she struck them nearly at a right angle, with full force, making about twelve miles an hour; and if it had not been for the bitts and nigger (engine) in the hold, she would have gone through; and that if she had not struck the Sabine she would have gone on the bank so hard that the Lee could not have pulled her off. (When he says nigger, he means the nigger engine that runs the capstan.) When he first signaled for her (the Richmond) he was between half a mile and a mile off. On page 214:

Q. If the Richmond had her proper signal lights, would you have seen them?

A. I think so; I generally see them coming up.

Q. Did you look for them?

A. I did, and saw nothing but the red light. I said at the time, that boat has only one single light; what has become of the other? I made that remark to my partner, who was with me, and the third clerk. I do not know whether he noticed me or not. Again he says: I did not notice but one signal light; some of them remarked afterwards, they saw two red signals, which is unusual for a boat to carry. [This boat actually had two red lights, one on the larboard chimney, as required by law, and the other on a flag-staff, amidships, back of the chimney. This is shown by other testimony.]

Q. Which side was the red signal at? A. The larboard. Q. What signal was wanting? A The green. Q. That would have been where? A. On the starboard chimney; it might have been there, but if they were I did not see them; I did not pretend to say they were not there.

From this it is clear the Richmond had no green light, or was quartering down stream when coming into the Sabine, as the chimney would then conceal that light. And on page 227, on cross-examination, he says:

I was out the usual distance from the shore until I saw the boat coming up the bend, when I drew in under the point to give her the bend, as I thought she wanted it; I saw there was most room between her and the point side, a good deal more than there was between her and the bend side; consequently I thought I would take it; a down stream boat has the preference. Again he says, in substance: I was a little above Twelve Mile Point when I first saw the Richmond, in the neighborhood of a quarter of a mile above.

D. W. Ensminger, pilot off watch on the Sabine, but with his partner in the pilot-house at the time, pages 235 and 236, says: As we were coming along, just above the point, we discovered a light in the bend, which was a signal light; and we came down, and got down just shaping round the point, when my partner blew two whistles, to which there was no reply; he came on still further down, I suppose some quarter of a mile, hardly so far, and he blew again; and just as he blew the second time it was crossed from the other boat; he did not know at the time what boat it was, when the whistle was crossed; he saw the boat was coming down towards him, and he stopped the Sabine, and was backing at the time the collision took place; just before the Richmond got to us, about a length, or a little further, I heard her ring a bell; I suppose they were stopping bells; she came into us and struck us a little forward of our cotton; I could not tell exactly how far. After she struck us, we swung together

and lapped; that headed the Sabine for the shore, and my partner came ahead on her and run her out on the bar. The Richmond backed off from us and we hailed her and she came alongside.

Q. When you first saw the light of the Richmond where was she?

A. She was in the bend, just below Mrs. Waggerman's.

Q. Where was the Sabine at that time?

A. Coming along just above the point, in the reach.

Q. Could you see which way the Richmond was heading, when you first saw her?

A. She looked to me to be heading straight up the river. Q. What part of the river do you think the Sabine was in when the Richmond crossed her signal? A. She was below the point. Q. Did you observe when the Richmond left the left hand shore to make her crossing over to Twelve Mile Point? A. It was after Harrison had blown his first signal. Q. How did she come across the river? A. She came pretty near square across the river. Q. Do you know where boats usually commence to make their crossing from that shore, when they are coming up the river? A. About a mile, or a mile and a half below where I saw the Richmond. Q. How many lights did you see on the Richmond? A. I saw two; they were both red. One was on the larboard chimney and the other on the mast, aft the pilot house. I did not see any more (lights); I never noticed any more. Q. From the time the Richmond crossed your signal until the boats came into collision, did you lose sight of the Richmond at all? A. No. Q. Do you know the way the Sabine was heading at the moment the boats came in collision? A. She was heading down stream; the blow swung the head of the Sabine in towards the left hand shore; the point side. Q. What distance do you think the Sabine was from the point shore; I mean the shore on that side where the Richmond put her? A. About two hundred and fifty yards, I guess, or three hundred yards, as far as I could judge. The Richmond struck the Sabine with her stem, on the starboard side, about six feet from the stem. On page 237 he says: The Sabine could carry seventeen hundred bales of cotton. On page 239 he says, in substance, *that the Richmond did not answer the first signal of the Sabine,* but she crossed the second immediately upon its being given; and that an up stream boat is easier handled than a down stream boat. [All the witnesses agree in this.] Again he says: The boats were about eight hundred yards apart, as far he could judge, when the Sabine blew her first blasts, and the Richmond looked then to be coming up the bend shore; that the map describes the position of the two boats; that the Richmond came quartering into them, angling in at an acute angle, close to a right angle. He put on the diagram the position of the boats

at the time they struck. Again he states that the Sabine was heading down stream and the Richmond across; that the Sabine handles well, and could be stopped still in three times her length, loaded as she was; that she is one hundred and fifty feet long, and that the Sabine did everything it was possible to do to avoid a collision. And on page 243, on cross-examination, he says: The Sabine was in her proper place.

John Douglas, a witness for libellants, at page 255 says: I was on the Sabine, in the capacity of watchman, at the time of the collision with the Richmond; I trimmed the guard lights the night of the collision, about a quarter to one o'clock; after making the 12 o'clock watch, I always went round and trimmed the lamps; I was on the roof, standing on the hurricane deck, at the time the collision occurred, on the starboard side, forward of the chimneys; I suppose I had been there from fifteen to twenty minutes. When I first saw the light of the Richmond, she was coming up the left hand shore, ascending; *I saw the red light and no other;* at the time I saw the light I suppose the Richmond was three hundred yards off; *I heard no signal from her but one whistle;* I heard two whistles from our boat, and in about two or three minutes two more; the Richmond never blew at all, that I could hear, after we blew our four whistles; when I saw the Richmond she was quartering across the river; I heard the stopping bells of the Sabine, and I heard the gong; the gong is to stop and back; I heard the gong after I heard the whistles of our boat; I stood there until after the collision occurred; the Richmond struck us upon our starboard, about three feet forward of the cotton; she ran into us, and after the crash the cotton fell off, part on her bow and part into the river; and she backed out; I looked at the left-hand shore coming down; I suppose it was forty or fifty yards off. *At the time the Richmond struck us the head of the Sabine was pointing down stream; the Richmond was pointing to the bow of the Sabine;* the Richmond came quartering into us; *the Richmond was pointing to the shore at the time of the collision;* * * * the Sabine was backing at the time of the collision; I looked at the shore and saw her backing; she had stern way; * * * I saw the bows of the Richmond; I suppose her bows stood about seven feet above the water to the top of the deck; the Sabine's stood about two feet to the top of the nosing.

Durbin Turnell, a witness for libellants, mate of the Sabine and on watch at the time of the collision, at Record, page 257, says: I came on watch at 1 o'clock, to relieve the captain, but saw him up once after that. I went on the roof, looked round, did not see anything, walked forward on the hurricane roof; at that time two whistles from the Sabine blew; again two short whistles; I then looked again and saw something approaching us to the starboard, some distance off. I remarked to the pilot,

"In the name of God what is that thing doing?" I saw no light about her; she looked to me as if she was coming square across the river, and would strike us about the boilers, if she got to us; I remarked to the pilot to stop her and back her strong; he said she was backing strong, and had been backing or something to that amount; I then stepped out on the stage, on the top of the cotton, forward of the hurricane roof; I looked again, looking at the boat, and thought it was the Belle Lee; I concluded that if we were backing strong she might possibly miss us; *she was first pointing at our boilers;* but we must have backed out from that; I remained on the stage until she got within jumping distance; I saw then she was going to strike us about our cavil; I stepped back on the hurricane roof; by the time I got on the roof, the collision occurred; both boats swung together; I then discovered a red light; * * * the Richmond backed out in the river, as I thought, with her head down stream; I then told the pilot to stop her and go ahead and get her into the shore if he could; I remarked to the pilot to blow for assist ance to take our passengers off; the whistles were blown, and answered by the Richmond, and she came alongside about the time we got to the shore or soon after.

And on page 258 he says: *The head of the steamer Sabine was pointing down stream;* that she had good power, handles well, and that the trip before this she had a heavier load; that she had ten tiers of cotton that trip, and but nine this. Again, he states that her guards were four inches out of the water; that he noticed them at Bayou Sara; that it is not uncommon for cotton boats on the Mississippi river to load down until their guards come down to the water; that he has seen them with their guards to the water; that the Sabine was not near loaded; she would have carried two hundred and fifty bales more; that the majority of the steamboat men do not consider a boat loaded till her guards are in the water; that he has been steamboating eighteen years, eleven of which he was mate. On pages 258 and 259 he says in substance: All the officers were on watch; I did not go down in the engine room, but I know that the pilots were on watch; the signal lights were burning properly at the time the collision occurred; that is the first thing I always look to when I come on watch; *that he had to look to the starboard to see the Richmond.* Again, he says: The stem of the Richmond struck their starboard bow, right by the cavil; that the stage he was standing on was on top of the cotton, forward of the hurricane roof, and that the stage went down with the forward cotton; that the cotton on the Sabine was piled within three and a half feet of the capstan, and that he thought the wound ranged square into the capstan, which was knocked over. On page 260 he states that the Sabine sunk in twenty-one and a half feet of water. On page 268 he says: I thought at the time that the

Richmond had been coming up from the bend on the other side, making her crossing, and started over next to where we were, and that the wind had struck her and she had run off with her pilot; she is in the habit of doing that. And further on he says: If she had kept on the bank would have stopped her.

Marion C. Levy, the third clerk of the Sabine, who was in the pilot house at the time of the collision, page 270, says: We saw the Richmond deep in the bend; we heard one whistle and thought that was the cars. [The two pilots state positively that it was the cars; they saw and heard them: Record, pages 219, 235 and 236; and in this they are corroborated by the pilot of the Richmond.] But after we got around the point we spied this boat; the pilot then blew his double signal, two whistles, and received no answer; in a very short time he blew his whistle again, and by this time the Richmond was heading across the river and was close to us. After a short time we blew our signal a second time, and the mate hallooed to the pilot if he was backing her; he said yes, he had been backing her for some time; and it was but a short time till the Richmond struck us on the starboard bow, forward of the cotton a little. On pages 271 and 272, he states in substance, that when he first saw the Richmond she was on the right hand shore, going down; that he could not tell the distance on water, but should judge she was nearly a mile away; he saw two red lights on the Richmond; that they were some half a mile above the point when he heard the whistle of the cars; that the Sabine was heading down stream when the Richmond was coming towards them. One of the two red lights on the Richmond was on the chimney, and the other on the flag-staff; that he thinks the Sabine was going back when she was struck; *that after he first saw the Richmond she appeared to change her course and ran across the river to where they were; that he was almost certain she was going to strike them about the aft end of the boilers;* that the Richmond was pointing right for the shore, as near as he could tell, and was running ten or fifteen miles an hour.

James Levy, the bar-keeper of the Sabine, witness for libel lants, on page 277 says: I was in my room on Saturday night and heard a whistle; I was not asleep, and immediately after the crash; I do not know what caused it; I ran out forward on the hurricane deck, and I saw a steamboat lying diagonally across ours; and when she swung or backed out, I saw it was the steamer Richmond. On page 278: Q. Which way was the Richmond laying? A. Nearly at right angles across the Sabine's bow; * * * I suppose she was twelve or fifteen feet into our boat, to guess at it. Q. Whereabouts were you standing when you saw the Richmond back out? A. On the hurricane roof, right forward the starboard chimney, hold of a guy. The Sabine's guards were four or five inches clear of the water when

they were coaling at Baton Rouge; his attention was called to it by the second clerk of the boat; he thinks they could have carried two hundred bales more; that he has been steamboating since 1843, with the exception of the last eight years, in which he steamboated eighteen months.

Thomas J. Henry, the engineer of the Sabine, and on watch at the time of the collision, on page 279, says: I was head engineer, or first engineer, I call it (of the Sabine;) she is a stern wheel boat, about one hundred and sixty-five feet long; * * * we were coming down the river; I was on watch at 12 o'clock; nothing happened until between 2 and 3 o'clock on Saturday night, the 10th of February; I heard a whistle blow and the slow bell rung; I slowed down and put on full stroke rods; took the cut off rods off, and by the time I got that done, the pilot blowed the whistle again; by that time they rung the stopping bell; I shipped up and backed her and was backing about two minutes; I heard a crash, and the firemen came running through the gangway and told me we were mashed to pieces; by that time the water was getting into the engine room and we started up stairs.

On cross-examination, pages 279, 280, 281, 282 and 283, he says in substance, that the first signal he heard from the Sabine was two whistles; the slow bell was then rung; he then shut her down and put full stroke rods on; that the object of this was to work her full stroke in case he wanted to back her; that the steam was cut down to one-sixteenth of an inch; that it is usually two and a half or three inches, when the valve is open; that he continued under that slow bell a couple or three minutes, as near as he could tell; *that he heard no answer to those two whistles;* that the next signal he heard from the Sabine was two whistles again; that the stopping bell was then rung, and he stopped the engine; then backed her immediately; that he was backing very strong; always does so unless they ring the slow bell; that he could not have backed her stronger, and was backing her about two minutes, as near as he could tell; that he does not know whether she had stern way at the time of the collision, as his business is inside and not outside; that the boat's engines were tip top popet valve engines; that it is considered the best, being the newest style; that the boat had fine arrangements for stopping; she had a shifting rigging with a forked hook fastened on the end of the camrods, the full stroke rods, and a lever that raises it up, that will stop both engines at the same time, they being coupled with one shaft; that one engineer is sufficient on a boat with shifting rigging; that he has been licensed engineer for nine years, and has been on boats all that time, except a year and a half, in 1864; that there are two bells and a gong on a stern wheel boat, and on a side wheel boat two go-ahead bells, two backing bells, and one gong; that the

bells are over the engines, and the gong or alarm bell hangs out a little from the head engineer's side, underneath the boiler deck; some boats have whistles instead of gongs; that the stopping bell is at the forward end of the cylinder, just over the engineer's head, a little in front of him; it is the largest bell; the effect of ringing that bell once, is to stop or go ahead; that the backing bell is situated at the after end of the cylinder; is about half the size of the stopping bell, and it is used for a backing and slow bell; when they wish to back, they pull the bell once, and if to back slow, they pull it again; that the gong is used for an alarm bell, for working strong, half head; for three different things, namely, to alarm the engineers that the boat is going to land; it is then struck three times; when running along, they hit it one tap, that is to work half head, that is to shut her down to about half a turn of the throttle valve wheel, that opens the throttle valve half an inch, that is owing to what kind of a thread you have on the throttle valve; it shuts her engines very near down to a slow bell; the third, running along under a head of steam, they ring the alarm bell twice, that is to whip it into her for all she is worth, for she is in a tight place; it increases her velocity about twice what it was, because it raises her valves the full length of the slide; I would understand two taps of the gong without any previous signal, to blaze it into her for all she is worth, to let on all the steam she has got; it would be to go back if she was running backward; it is owing to the way she is running. And on page 284, he states in substance, that the bell to go ahead on the Sabine was rung after the collision, and he did so, and left the engine going ahead when the water drove him out of the engine room.

The testimony of this witness in reference to the signal conveyed by the bells and gong of a side-wheel boat, and their situation, is fully corroborated by that of Capt. John E. Ford, pages 302 to 304.

Now the signal given by the pilot of the Richmond is shown, by the testimony of the steward of the Richmond, to have been two taps of the gong, and according to the testimony we have quoted above, that signal was to give her all the steam she had in the direction she was going, and that was forward.

Richard F. Fuller, clerk of the Sabine, a witness for libellants, Record, pages 286 and 287, says in subtance: That he was first clerk of the boat; she left Camden, Arkansas, on the evening of the 4th or 5th of February, about 4 o'clock, with 600 or 700 bales of cotton, and picked up on the way down the balance of her load, consisting of fifteen hundred and seventy-one bales of cotton, a few hides, thirty or thirty-one bags of cotton seed, and a barrel of bees-wax, and about fifteen or sixteen passengers; that the Sabine never was loaded; she has a capacity of eighteen hundred bales of cotton; that the guards forward, where the

Richmond struck her, were two feet out of the water; that the boat has a sheer of three feet; that the collision occurred on the morning of the 11th of February, when he was asleep; thinks between 2 and 3 o'clock; that the first thing he heard was a crash, and by the time he could get his face out of the window, another heavy crash, broadside on; ran forward, saw the boat sinking; saw another boat; hallooed to the boat and said you had better come and take our passengers off. And again, on pages 288, 289 and 290, he says: The cut given by the Richmond seems to be a kind of glancing from the cotton, from where the cotton was piled up to where it first commenced cutting through the Sabine; the cotton caused the Richmond's bow to glance; it entered about seventeen feet; was stopped by the capstan: it cut through timbers about seven feet, up and down; *the cut is the shape of a steamboat's bow; the Richmond's bow*; the Sabine was built last year, launched on the 5th of December, 1871, at Jeffersonville, Indiana; this would have been her third voyage; he saw her building; she was built of elegant timber, and was the strongest stern wheel boat he ever saw; she had three very heavy breast hooks in her bow; the strongest stem he ever saw; the blow was very violent; it looked as if everything was crushed; the bow of the Richmond penetrated to the capstan; he supposed it was the capstan and nigger engine stopped her, otherwise she would have gone through and cut the bow off; the capstan is the strongest thing about the bow; it has an iron spindle about six inches in diameter; witness identifies the three photographs of the Sabine taken on 24th February, after she was raised, and while laying at the foot of Thalia street; No. 1 was taken forward the guards; No. 2 shows the pilot-house and a front view of the boat entirely, and No. 3 was taken sideways, to show the cut as she lay up and down the river.

Capt. Emile Gross, Record, pages 292 to 295, states in substance, that he has been engaged in the business of steamboat captain and pilot for the last thirty-seven or thirty-eight years, in different trades, the St. Louis, Red River, and Lafourche, but principally between New Orleans and Bayou Sara; that he has been a licensed pilot since they were first issued; that an ascending boat is easier managed than a descending boat because she has the current against her. (They are, by the rules for the government of steamboats, entitled to the choice of sides.) That the proper watch on a steamboat is the captain, the pilot, the engineer and hands enough to work the boat; that the mate stands in place of the captain when the watch is changed; that it is usual for the captain or mate to be forward at night when the boat is under way, sometimes below stairs, and sometimes above, *but in case of meeting a boat or making a landing, he should be forward on the hurricane roof, to see that the pilot is doing his duty and give him directions.* [In the case at bar the

testimony is conclusive that the Richmond had no one on the roof at the time of the collision. This we will presently show.] And that if a descending boat, coming round Twelve Mile Point saw the lights of an ascending boat, deep in the bend on the opposite side of the river, he would consider it the duty of the descending boat to keep on the point shore; that he would consider it dangerous for her to steer across the lights of the other boat; he would not do it; that the Richmond is called a very hard boat to steer; has met her at different times; that she run into the Wild Wagoner when he was on the latter boat; he was asleep at the time; knows that she steers very bad from the fact of going down with her, with the Wild Wagoner; had to stop the Wagoner two or three times to let her go by.

Capt. John E. Ford, Record, pages 300 to 302, states in substance: that he was in command of the tug Nellie; was employed to tow barges to the wreck to bring down the cotton; when he got there he found the Richmond in possession, the master of which refused to permit him to do anything; two large holes were cut in the cabin of the Sabine, one in the ladies' cabin, the other in the gentlemen's; he does not know their object; they were cut by the carpenter of the Richmond, without raising the carpets.. [They were evidently cut wantonly, as claimants have failed to give any reason fur cutting them.]

Capt. Greenleaf Andrews, Record, pages 305 to 311, states in substance: That he is President and Superintendent of the New Orleans Wrecking Company; that he was on the steamer Travis Wright, on the 10th February; that the Sabine passed them before they got under way, and he passed her a short distance from Baton Rouge; he observed that she had a nice load of cotton, and remarked that he did not think she was deep or overloaded; that he has been connected with steamboats thirty years; he next saw the Sabine on Sunday evening, 11th February; she was then sunk a short distance below Twelve Mile Point, about three hundred yards from the shore; that he raised her; that he examined the wound she had received; it commenced about six or eight feet from the stem; that it was done by the bow of a boat; that no other part of a boat could have penetrated so far; that the wound is wider at the outer part and gradually narrows to a point, where the force of the blow is expended.

This witness also identifies the photographs, and states that No. 3, being taken abreast, shows the break well; he accounts for the mashing in of the sides of the Sabine, aft of the wound, by the boats swinging round together after the collision; and that the stem of the Richmond might have been bent to the larboard or starboard by the collision. He also states that it was impossible for the Sabine to have inflicted the wound on herself; that she could not have run sideways or sagged down on any other boat with sufficient momentum to inflict that

wound, which had penetrated from fifteen to twenty feet nor could it have been inflicted by a side blow from another boat, as she could not have been pushed in beyond amidships with her guards piled with cotton. And he had occasion to remark, she was a very strong boat.

James Pell, Record, page 313, says: I am a pilot on the river; have been a pilot about twenty years; generally from Louisville to New Orleans; about twenty years ago I was in the trade between the Tennessee river and New Orleans; I was pilot on the Richmond in 1869 and 1870; she was not a good steering boat. And on pages 214-215, he says: At the present stage of water, going up with the Richmond, I do not think I would go within two hundred and fifty yards of the shore under the point; the Richmond did not back with much force when I was on her; in navigating the Richmond, we have to use the engines to assist steering; the reason is, that she is a large boat and rather a bad steering boat; during the time I was on the boat she run off from me frequently; running ten miles an hour and drawing say six feet of water, I would suppose the Richmond would go all of two lengths after beginning to back before she could be stopped; I believe she is three hundred and forty feet long. When I was on the Richmond, I was in the habit of having some one to assist me at the wheel; I considered that it was necessary.

Nathaniel C. Selby, Record, pages 315-316, says: I was on the Sabine at the time the collision with the Richmond occurred; I was captain of the Sabine; I was in bed at the time of the collision; I was awake; I had been in bed only fifteen minutes; I was awake; I had been in bed only fifteen minutes; I heard the Sabine blow two blasts of her whistle twice before the collision; I hear the slow bell of the Sabine ring probably a minute after; I heard the last whistle of the Sabine, two blasts: then I heard the stopping bell; I then jumped up and put on my clothes; while I was putting on my clothes, I heard the backing bells, and knew that she was backing; my room was the last on the larboard side aft, in the ladies' cabin, and right over the larboard engine; the wires of the bells ran right under the floor of my room; I heard the bells as plain as I ever heard them; as soon as I got on my clothes, I started forward; I do not think I had gotten more than half way of the cabin before I heard the crash and felt the shock of the collision; the bells were about two feet from the floor of my room; I then hurried for the hurricane roof as fast as I could run; when I got out, I found the Sabine with her head down stream, the Richmond with her head right into the starboard side forward of the cotton, with her stern apparently square out in the river; I looked for the shore; it was the first thing I looked for; it was night, but I could see that we were near the left hand shore, coming down; I could not tell the distance. I ran forward as fast as I could; got on the cotton.

when I discovered a great deal of the Sabine's cotton had fallen on the Richmond's bow; her whole forecastle appeared to be covered with the cotton; it fell off the starboard side and forecastle of the Sabine, and I suppose there were from seventy-five to one hundred bales; the Richmond then apparently commenced backing, and I saw that the head of the Sabine was apparently cut half in two; I saw her capstan laying down, which had stood amidships of the Sabine; the Richmond seemed to back on one wheel, and she swung round with her head down stream and her stern up stream, alongside of the Sabine; the Richmond was between the Sabine and the right hand shore going down; the Richmond then started as if she was going to round out and go up the river; I commenced hallooing to them to come back, that we were sinking fast, and save my passengers; I could get no answer; I then told my pilot to blow his whistle five times, the signal of distress; by this time the Richmond was a considerable distance out in the river, nearly rounded, with her head up stream; they then answered the signal, and started to come back; they came back; came alongside of us; before this time the Sabine had sunk. As they were coming back, I saw the captain come out of the Texas putting on his coat.

On page 316, he says: It was the mate's watch on the Sabine when the collision occurred; he relieved me about half past one o'clock; when he came on the roof, I sat and talked with him about half an hour; when I went into the cabin it was about half-past two. I do not think I ever saw a prettier handling boat than the Sabine; she had big power for her tonnage; she could check herself quicker backing than any boat I ever saw; I built her and never saw her loaded; at the time of the collision her guards were five or six inches above the water; I saw the Sabine built extra strong, under Cooper's Old Red River Requirements; she was an extra strong boat; she had been completed and running about sixty days before the collision. And on p. 317 he says: I suppose it was not over fifty yards from the shore where the Sabine first sunk.

The testimony of this witness, and that of Mr. Fuller, clerk of the boat, will also be found at pages from 76 to 81 of the additional testimony taken on behalf of the libellants In it he describes the wound received by the Sabine with the greatest minuteness, the number and size of the timbers that were cut through by the bow of the Richmond, and size and shape of the wound, from actual measurement; and the statement made by Green, the master of the Richmond, to himself, in presence of Mr. Fuller, the clerk of the Sabine, and Mr. Levy, the third clerk, while standing on the boiler deck of the Richmond, immediately after the collision, "*that he thought when he came out of his room and saw the river full of cotton, that the Richmond had run into a rack heap;* (under the impression that the

cotton was drift wood) when he felt the jar, he thought the Richmond had run into the bank; he had no idea it was a steamboat;" *that there was no person on the roof of the Richmond until after the collision:* if there had been any one there he would have seen them, as he wa sstanding right close to the Richmond, on the hurricane roof of the Sabine, right forward and close to the bell; the Richmond was then in the Sabine; and he could see the hole in the latter when the Richmond backed out, and in the conversation told Green she was cut half in two; that he shouted for the Richmond to come back three times and received no answer. He also identifies the three photographs taken by libellants of the steamer Sabine, and condemns those taken by the respondents as bad in several respects, which he names; and that Green urged him to abandon the Sabine to him.

The testimony of the witnesses on behalf of the libellants, is, in a great measure, corroborated by that of the respondents, with regard to the manner in which the Richmond was running at the time of the collision, that is, that she was coming square across the river, with head slightly inclined down stream, and if she had not struck the Sabine she would have gone into the bank of the river under the point, so hard that the steamer Lee could not have pulled her off. This fact was admitted by one of her pilots. We quote from some of this testimony:

Henry L. Lantz, steward of the Richmond, Record, page 318, leaving out the questions, but putting enough in to make the answers intelligible, he states:

When the collision occurred, I was in my room in the Texas, on the larboard side. On page 321 he states he came out on the left side, and on page 322 he says the Richmond was headed for the shore, the larboard shore, on the bend, just below the point (he means the left coming down). Now he could not have seen the shore from his position on the left of the Texas, if the Richmond was headed up the river.

And again, he says: *The Richmond was about forty or fifty yards from the shore;* that he could see a house upon it. On the same page, he says, when he first came out, he supposed the Sabine was half a mile off. It will be observed he stated first, that he was in his room when the collision occurred.

On page 321, he says: The Sabine ran into the Richmond; that he saw it. On page 324, he says: I was in my room at the time (of the collision). On page 320, he says: When I came out of my room, I ran down stairs, after I told the carpenter the boat was sinking; the mate said the boat was sinking, as he ran down stairs. And on page 319, he says he heard the gong strike twice. Now, we have shown above that the meaning of this would be to give her all the steam she had in the direction she was going. On page 325, in answer to the question: What was the management or navigation of the Sabine at the time of this

collision, was it proper or improper? he answered: I do not think it was proper. I do not think any boat coming down stream had any business in the bend.

Now, the testimony of every witness in this case shows that the Sabine was at the point side and not in the bend. This witness was an ignorant man, a pliant tool, willing to swear to any thing, but too ignorant to give his statement the semblance of truth. His testimony will be found to be a mass of contradictions, and a simple glance at it is sufficient to condemn it as unworthy of a moment's consideration. It is, however, a fair sample of a large portion of the testimony introduced by the respondents.

Joseph Travis, colored fireman, on page 327, says: "The Richmond was heading for the shore;" and on page 326, that "the Sabine struck them about the larboard knee, and knocked the knee down." To the question: "How many blasts did the Richmond blow altogether?" he answered: "Well, I told you at the time she struck, after she blowed the first whistle; I never paid any attention because *I was scared.*"

Richard Jones, colored fireman, page 331, says: "When the Richmond blew the first whistle, I was on the guard close to the fire box, on the starboard side. I could not see anything there; I was looking in the river; *then the boat blew only once*, to my knowledge." On page 332, he says: "She (the Richmond) *was towards the starboard shore;* she was struck on the larboard; he did not see the striking." And on same page he says: "The Richmond was steering right towards the starboard shore."

Francis M. Clayton, pilot on the Richmond, off watch. See testimony, pages 334 and 335. Q. State distinctly all you know about this collision? A. After I had laid down, I suppose I had slept a few minutes, it commenced raining very hard, and it aroused me up; I do not know what time altogether I had been asleep; but I know I had been asleep. Before I went to sleep it stopped raining; then I heard the blast of the whistle and no answer given to it. [This whistle was blown at the cars, as we will show hereafter, before the Sabine came in sight; both boats saw those cars. The Sabine did not, however, blow at them, but the Richmond did, as her pilot admits]. Q. There was no answer? A. No, sir; and in a few minutes there was another long single blast from the Richmond's whistle; then I heard two in reply from some other steamboat. [This witness does not appear to have heard the two first whistles of the Sabine. They were, as has been shown by several wisnesses whose testimony we have quoted, blown first, though the law imposed that duty on the Richmond.]

When I heard the signals crossed, I apprehended some danger of a collision; I knew there was something wrong, because the signals had been crossed: then I got up and went out on the

larboard side of the Texas forward, and stood in the door forward of the chimneys, and saw the boats close together, so close that I could not see the bow of the Sabine.

[Now, if the Richmond had been going up the river he could not have seen the Sabine, as part of the Texas projected thirty feet beyond where he was standing, and would have prevented him from seeing anything on her starboard; they must have been coming together at right angles, the Richmond running into the Sabine, in order to conceal the bow of the latter from his sight; but this he admits].

If I did I do not know, for they were just about colliding at the time; I seen the position of the boats however, *and as near as I could witness, they were coming together at right angles; with the bows very close together;* we backed her from the boat that proved to be the Sabine, a few seconds after the concussion or collision; we backed out into the stream, probably three hundred yards; I could not say the exact distance, being at night; however, before we did that, I could see that we were about one hundred yards from the right hand shore, on the right hand side; I do not know exactly the point of accident, but I could see the shore, which was under Twelve Mile Point, or a short distance under it.

[This shows conclusively that the Richmond was heading directly for the shore that the Sabine was on, and probably pointing slightly down stream, or the witness, from his position on the larboard of the Texas, could not have seen that shore. Had the head of the Richmond been even slightly inclined up stream the Texas would have been between him and that shore and prevented him from seeing it.]

We backed away, as I said before, about three hundred yards, when the signal of distress was given by the Sabine, and we went back along side of her; I could not see what boat it was then, but I had seen previous to that three letters of her name on the starboard side. Q. When did you see these three letters of her name? A. When I was standing in the Texas door, on the larboard side, about the time of the collision; it may have been before or after; but I remember distinctly to have seen the three letters on the starboard side of the Sabine aft. Q. Whereabouts is the name written? A. On the bulkhead, near the engines, on the outside. Q. About how far from the stern? A. Probably six or eight feet; that would be about the commencement of it; I did not observe. Q. When you first looked out of the Texas door, which side did you look at? A. The larboard side of the Richmond.

[And he could see the larboard shore, the very one that he could not have seen, if the Richmond had been going up the river and not into the bank.]

Q. How far back is your room in the Texas in which you were at the time? A. I should judge probably thirty feet from the

front of the Texas. Q. How far out of the Texas door did you incline your body? A. All my body was out; in fact I was hanging on with my hand to the side of the door. Q. From your position you say you could see the right bank of the river, going up? A. Yes, sir. Q. How was the Richmond headed at that time? A. Nearly straight for the shore. [Further on he states he cannot say whether she was going ahead or not; but thinks she was stopped because she backed away from her a few seconds after the collision In this he is certainly right, she was stopped; stopped after she got just seventeen and a half feet into the Sabine; the timber and iron in the bow of the Sabine stopped her, and if they had not done so, she would have been stopped by the bank of the Mississippi river, to her total destruction, as this witness hereafter admits.] On page 336, he says he is not certain which boat gave the first signal; they were blowing at the same time; he thinks the Richmond's was first. [This is not counting the one blown for the cars.]

On page 337, this witness, in answer to the question: Then as I understand you, the Sabine passed into the bank, just after the collision, and the Richmond backing from the bank? he said: "I think so." And on page 339, *he admits that he was told one of the Richmond's signals was for the cars.* When asked whether the Richmond was pursuing her usual course up the river, his reply was: I do not propose to answer that question. I did not see her moving up the river at all. I know that where she was, was the proper distance from the shore for an ascending boat, at the time I looked out. [It is clear that he could not answer that question favorably to the Richmond. She was not going up the river at all, but into the bank very rapidly. And when he saw her, she was probably at a proper distance from the right hand shore going up, but a few seconds more would have brought her to the bank so hard that she would have been mashed up from stem to stern.]

On his cross-examination, page 341, he say he has no knowledge of how the Richmond was navigating from Nine to Twelve Mild Point; he saw nothing of the boat until they came together, or were very near together- [Yet he is the author of a plan introduced by respondents which purports to give the navigation of the boats between Nine and Twelve Mile Point. On same page he says the collision occurred two hundred yards under Twelve Mile Point. Q. Then the Sabine had gone below Twelve Mile Point? A. Yes, sir; about two hundred yards under the point; that is under the last round of the point. Q. Do you know of any circumstances which prevented the Richmond from holding to the left hand shore? A. No, sir; except to avoid a collision with this boat.

Now, this answer is absurd on its very face; and the witness must be very simple to think that courts are so easily imposed

upon, as to believe this silly statement. There was no boat on the left hand shore but this boat; the sabine was on the right hand shore going up, and the Richmond was holding for that shore, and that boat, as the witness himself admits; yet, he unblushingly tells us that the Richmond did not hold for the left hand shore going up that she might avoid a collision with this boat, (Sabine.) Again 342:

Q. If she had held to the left hand shore going up, what would have been the result? A. I have no idea of what would have been the result; if she had held so, she would have run into the bank. [He is right, if she ran at it as she did at the right bank.] Q. If she had held to the left hand shore, could the collision have occurred? A. I could not tell that. [No; he could not tell that, what a child would know.] Q. Do you know what way the head of the Richmond was pointing when you first came out? A. The Richmond was pointing to the shore, on the right hand bank; I saw that past the centre of the Sabine plainly. Q. Which side of the Richmond did you come out? 342. A. On the larboard side; I saw the right hand shore. Q. Then the Richmond must have been holding square into the shore? A. That is what I think. Q. Otherwise, you could not see the shore? A. Yes, sir; [No, sir; should be the answer.] Q. You saw the shore plainly? A. I did. Q. Then the Richmond must have been holding for the shore? A. That's what I say. Q. Well, suppose the Richmond had kept her course and the Sabine had not been there, what would have happened? A. I think she would have run into the bank, on pp. 342 and 343. Q. Can you imagine any manœuvre, by which the Richmond, holding as she was to the right hand shore, pointed with her head to the right hand shore, and being some hundred yards below Twelve Mile Point, could have rounded Twelve Mile Point? A. No, sir; she could not. Q. Could she have rounded Twelve Mile Point without changing her position? A. Of course she could not: she would have had to back out from the shore, and straighten up to get around it; she would have had to back out.

[Here we have positive proof, by the testimony of respondents' witnesses, that the Richmond would have struck the bank if she had not struck the Sabine; and going into the bank of the river with her full force, was certainly not her proper place.] Q. Can you explain to us how it was that the Richmond was pointing right into the shore? A. I do not know; I have my own ideas about it: stopping the larboard engine, and stopping the wheel, that would cause it.

[There were other causes, without the intervention of the engine, or wheel, that he is silent about.] He admits on page 344, that he has heard of her running into the bank, but he does not want to answer the question about her running away with

her pilots. Now she could not well run into the bank without running away with her pilots. He also admits, on the same page, that the Richmond's first whistle was blown at the cars; that Mr. Duffy, the pilot on watch, told him he thought it was a steamboat. The cars were seen by the pilot of the Sabine, above Twelve Mile Point, and by the Richmond, between Nine and Twelve Mile Point. They were the cars of the New Orleans, Mobile and Texas Railroad. At that time the boats were several miles apart and concealed from each other by the point. On page 345 he admits that the Richmond blew but two whistles: One for the cars and the other for the Sabine. We have shown above that the Sabine blew two whistles for the Richmond and none for the cars, and that only the last whistle was crossed by the Richmond. On page 346 he states that the bell rung by the Richmond was the goahead bell or stopping bell. It is used for either purpose. On page 348 he admits that all his knowledge in reference to the track of the boat s derived from Mr. Duffy; he knew nothing about it himself. On page 350, in answer to the question: Can you state now whether the bell you heard was to stop or goahead? He answers: I do not know, but I heard it. Q. It was not the backing bell? A. No, sir. [It was clearly intended to open out; give her all the steam she had, as the witnesses in reference to the management of engines, whose testimony we have quoted, have fully explained.

Andis Saunders, a witness for claimants, colored hand on the Richmond, page 350, states that he was standing on the forecastle of the Richmond. Page 351, he states in substance, that the Richmond was heading right into the bank, and she was about fifty or seventy-five yards from it; could not tell exactly. On page 352, he states that he was *frightened* when he saw the boat coming and ran aft, back in the engine room; he did not know what was going to happen; that he stopped himself when he got there; that he ran fast; he did not want to see what boat ran into them; that he did not know how the Richmond hit the Sabine; he saw her quartering across her bow. On page 353, he say he was too much scared to make a noise, and that if the Richmond had not hit the Sabine, he supposes she would have hit the bank; that she was very close to it, the right bank, going up; that the Sabine was heading right across the stem of the Richmond. [The Sabine was *coming down the river* and the Richmond was *going into the bank.*]

Charles Kiteloe, also a roustabout on the Richmond and a witness for claimants, pages 353 and 354, says: I was on the fire watch; on the coal box, breaking up coal at the time this happened; I was on the coal box and heard the Richmond blow a long whistle, and a short time after a fireman that was not on watch, came and said, "Shut up the flue caps;" I think it was Mr. Wilson, the engineer; then I said, "What is the boat going

to do; are we going to land here?" I then went out on the guards and saw this boat coming and heard our bells ring to stop her; then, at that time, I went out on the guards and saw the boat coming; and after a little while, when it come, we were pretty close to the shore, swinging in; then the boat seemed like coming round the point, and coming into the knee of the Richmond, on the larboard side; I stayed there after she struck; all the hands came running out, and the last one grabbed hold of me; I could not speak, I was *frightened* so, and when I did come to myself, he turned me loose. Q. What made you make the remark, "What is this boat going to do; and are we going to land?" A. Because we were so close to the bank. Q. What way was she headed at the time? A. *She seemed to be going into the bank*, like as if (the window) was the bank, she had her head pointed right to it. On page 355, he states that the Richmond's head was pointed for the shore; that she was about two hundred yards from it; that he believes there are sixty feet in a yard, and that two hundred yards was equal to twice the length of the clerk's office; (the room was certainly less than forty feet in length;) that he was so frightened he could not run; that there was an awful noise; the firemen came running out of the coal box, and the last one grabbled him by the arm.

We will here remark that when the testimony of these deck hands and roustabouts on the Richmond was taken, the Sabine was at the bottom of the river, and it was supposed by the claimants that she would never have been raised to show whether she struck the Richmond or the Richmond her; and these men have every one of them sworn that the Sabine ran into the Richmond and struck her on the larboard side, about the knee, because they found this knee had been broken, probably by the cotton from the Sabine falling on it, or when the Richmond came against the cotton on the Sabine after the collision. Subsequently, when the Sabine was raised, we have the claimants changing their line of defence, and endeavoring to show that the Sabine came in collision with the larboard bow of the Richmond, and simply stove in her side; that the bow of the Richmond did not penetrate into the hull of the Sabine And they have actually got one witness, James Lusk, to make the bow of the Richmond like a piece of India rubber. But to show this more fully, we will quote from his testimony, Record, page 532: Q. When the Sabine came in contact with the Richmond at a point eight feet aft from the stem of the Richmond, the stem of the Richmond must have been forward of the point of contact was it not? A. Yes, sir. Q. How are you going to get the stem of the Richmond back to penetrate to a point five feet aft of the stem of the Sabine, so that the stem of the Richmond went into the bilge kelson of the Sabine? A. Well, there is a circle to the boat, and she struck the Richmond in that circle; the Richmond passed

through her quartering, and brought herself in so that her stem struck the bilge kelson. We will now turn to the roustabouts' testimony.

John Henry Williams, Record, page 356, states that he was a roustabout on the Richmond. On page 357 he says: *The Richmond was headed for the shore, and the Sabine running down.* The Sabine seemed like going between the Richmond and the shore; thinks the Richmond was one hundred yards from the shore; that he was standing on the coal box, on the larboard side, and remarked that he thought the Richmond was going to land. [All these witnesses were under this impression, in consequence of her coming at the shore in the way she did; they knew well that she was not going up the river. If she had been they would not, on the larboard guard, have seen the starboard shore going up stream.]

On his cross-examination, on page 388, he says: The Richmond *was headed right into the bank;* does not know whether she would have struck it; there might have been a sand bar there. On p. 359 he says she stood on the larboard guard about fifty yards from the bow, and that there are no feet in a yard; that he is no carpenter, and cannot tell how many inches there are in a foot.

Charles J. Duffy, pilot of the Richmond, on watch at the time of the collision, Record, page 360 to 370, states in substance, that he first discovered the Sabine when she was rounding Twelve Mile Point; that he could not have seen her above the point in consequence of some trees; that when he discovered her he was making a long crossing, and was about half way between Kennedy's house and the point, about a mile off; that he blew his whistle and received no answer, and pulled closer into the point, starboarded his helm; and that the Sabine ran into the Richmond.

[Now, the absurdity of this statement is patent upon its face, and it is contradicted by the testimony of every witness who saw the collision, both on the part of the Sabine and Richmond. But supposing it was correct it shows that the Richmond was in the wrong and the cause of the collision.]

In the first place we have shown that the collision occurred about two hundred yards under the point; that the two boats were going about the same speed or nearly so; yet according to this witness' theory, the Richmond ran fifteen hundred and sixty yards; while the Sabine was running two hundred yards, as when first seen, they were a mile apart, but to make matters worse, he says the Richmond was stopped, and backing some time before the collision.

Again, he was making a long crossing; that is, he was crossing the river about half a mile wide from bank to bank, but considerably less than that, when you take into consideration the

distance boats usually hold from either bank, from two hundred to three hundred yards. This crossing was to be made in a distance of two miles; that is, Kennedy's house being one mile above Nine Mile Point, and about two miles from Twelve Mile Point. This is his own version of it. Now, according to this, his bow must have been almost directly up the river, and the Richmond parallel with the bank. Such being the case, and seeing the Sabine coming round the point, close on to it, and signalling for that shore, (he admits that the law gives her, as the descending boat, the choice of sides) what necessity was there for him to turn the Richmond square at the shore, with the Sabine between him and that shore: so that persons standing on the larboard side of the Richmond, from their positions on her, could not by any possibility have seen that shore, if the Richmond was going up the river? Oh, he says, this was to avoid the collision. We have seen that it produced it; but the witness is simple enough to think that any silly story of his would be believed. Again, he thinks the Richmond had stopped dead still, yet he saw the jackstaff of the Sabine beyond the bow of the Richmond. Now, it is well known that the steamboats do not run sideways, and we found the track of the Richmond seventeen feet into the hull of the Sabine. No stationary boat could have inflicted that wound. He concludes it was stopped, because she backed away so soon. This was certainly a sage conclusion. He entirely forgets the law of force and resistance: that when they become equal there must necessarily be a stop, and this stop did not take place until they swung together after the collision. But this witness was trying to swear himself out of a difficulty that must destroy him forever as a pilot. No man would be willing to employ a pilot who had, through neglect, or carelessness, run into and sunk another boat, that his employers should be compelled to pay for. He was bound to show that he was not in the wrong, and we have seen what a mess he has made of the matter. On page 364, he admits that she had run into the bank previous to this collision.

Edward North, striker on the Richmond, Record, pp. 375 and 376, says: I was standing in the engine room and the first thing I heard was one whistle blown by the Richmond, and the next thing was the bell ringing on the larboard side; the second engineer was standing on the foot box, at the time; he stopped my engine and went right up on the foot box and came down on the other side; I went aft on the foot box, and the bell rang to come ahead again; I went ahead and made two or three revolutions; and the next thing, both gongs rang to back her; she made four or five revolutions backward and then collided with the other boat. I made the mate take notice to her backing.

Now, this mate appears, from the testimony of several of the witnesses of the Richmond, to have been quite an ubiquitous

character. It was his watch, and his place was on the hurricane roof of the Richmond, when she blew her whistle. Some two or three of the witnesses put him there; others on the boiler deck, and the second mate puts him in a chair in the cabin, according to his own statement to the second mate, made after the collision occurred. But this witness has him in the engine room coolly watching the motions of the engines as the boats are coming together, when the frightened deck crew are running wildly through the engine room.

Again: Why was the larboard engine backed before the collision, and then come ahead on again? This would require a little explanation from the pilot, which he has entirely failed to give. This witness was asked, page 377, if it was not necessary to stop before backing, in answer to which he said: Well, ever since she ran into the bank, Capt. Green gave orders that whenever the bell rang it was to ship her up and back her. He admits that the wheel would naturally roll over a short time. Now, this withess admits she had a habit of running off with her pilot occasionally, and going into the bank, and this fact was well known to her captain; hence, his orders to commence backing before stopping. This witness heard but one blast from the Richmond.

James Farley, watchman on the Richmond, pages 383 and 384, on cross examination, he says: The Richmond's head was pointed to the shore; she was running that way, and he heard one whistle from the Richmond and two from the other boat.

The substance of the balance of his testimony is, that he thought the Richmond was going to land; that he ran out on the larboard guard to get a torch; got to the forward stauncheon, between the fire doors and the cabin steps; saw the larboard shore going up and the Sabine between it and the Richmond; got frightened and stopped, but afterwards ran under the cabin steps. On page 387, he judged there were four or five feet in a yard; does not know how many they call it down here. When he first went out, he did not pay much attention to how the Richmond was steering, but after she struck she was headed for the right bank. On page 385; he guesses when the Richmond was whistling she was under full headway. On page 385, he states that as soon as the boat struck he saw the mate of the Richmond on the forecastle; that was the first place he saw him. [We have shown that he should have been on the roof, as it was his watch.] On page 389, he says: The Richmond carried a green light and two red lights; the green light on the starboard chimney and the *red lights amidships.* [The law authorizes but one red light, and that should be on the larboard chimney.]

Thomas Callow, striker on the Richmond, page 389, says he heard one whistle from the Richmond; that he was stationed at the starboard engine; there was nothing occurred after that

whistle until the bell commenced to ring, he should judge, about a minute after; the larboard stopping bell rang to come ahead again, and shortly after the starboard bell rang to back; that is the gong. [This is substantially the same as the statement made by the other striker, and from it the Richmond was clearly endeavoring to make some manœuvre with her engines. Stopping and backing the larboard engine would have had the effect of checking her swing down the river, which she was evidently doing. But why does not the pilot explain all this? He swears that he backed her, but the engineers show that he first backed upon but one wheel, and then come ahead again. [This was all done after the first and only whistle by the Richmond. Again: it appears from the testimony of this witness, that there was but one engineer on watch and two strikers, and that this engineer had to go from one engine to the other, or at least did so, he having backed both; though the witness states that he stopped the starboard engine. (See his testimony, page 390. Again on page 391, he says: The rule on the boat was to back before stopping, because she ran into the bank. In other words, to back as soon as they heard the gong ring without waiting for the stoping bells. On page 382, he admits there was a great deal of handling of the engines on the Richmond; or in other words, she was to some extent steered by them. On page 394, to the question: Had the Richmond made a full revolution of the wheel back? he replied: *I do not know*; that is the starboard engine. Q. How long would it take to stop, reverse the wheel and make it go back? A. About a quarter of a minute. Q. Was the blow violent? A. Yes, sir; *I felt it very much in the engine room.* Q. Did it nearly throw you off your feet? A. Yes, sir; and bumped me against the second engineer when she struck.

[From this it is clear that the Richmond had momentum, and when it was suddenly checked by the collision, these two men were thrown against each other. This was one proof of it, but we know she was going nearly ten miles an hour. And this witness does not know that his engine, the starboard had made half a revolution backward, consequently there was nothing to stop her, as that certainly would not have done it.

N. W. Wilson, second engineer on the Richmond, and on watch at the time of the collision, pages 396, 397 and 398, states in substance, that he heard the Richmond's whistle blow; does not know how many there were; he was on the larboard foot box at the time; the bell rung sometime afterwards; could not say how long; it was the bell on the larboard side to stop; he stopped the engine, the striker came up on the foot box, and the bell rang to come ahead again; he then walked down on the main deck; then there were two taps of the gong on each side, to back both engines; he backed the starboard one; while he was

backing it, he looked over and saw the other being backed. He thought he backed about a quarter of a minute before the boats came together; he noticed that she made half a revolution backwards; thinks she made two or three; cannot say exactly; the engines were making twelve or thirteen revolutions at the time the bell rung to stop the larboard engine; they ordinarily make fourteen or fifteen revolutions per minute. He says he was standing in the engine room when the gong rung, nearly midway between the two engines; that he told the striker to stop the larboard engine and went over and stopped the starboard himself; that he had to stop her first before he could back her. On page 399, he thinks it was a quarter of a minute from the time he took hold of the lever until the collision; that he has been a second engineer for a year; that it is a rule on the Mississippi river, that when a pilot wishes to back his boat, he first rings a stopping bell; that there are some preparations to make before backing. On page 400, he says he noticed the engine had made half a revolution back before the collision. And on page 401, he admits having stated this in his examination before the Inspectors.

From the testimony of the witness, it will be observed that he heard but one whistle from the Richmond. This is the same as that heard by the two strikers; that the Richmond makes fourteen or fifteen revolutions with her wheel per minute, going between nine and ten miles an hour; that there were but fifteen seconds between the time he took hold of the lever to back, after the gong had rung and the collision. Now it is clear that this would not have been sufficient time to check the momentum of the wheel with the velocity it had, making a revolution in about four and a-half or five seconds. But supposing for a moment that he might be mistaken in time, he claims but half a revolution backward. This is corroborated by the testimony of the striker, and would have had no perceptible influence in checking the headway of a large boat like the Richmond, of about two thousand tons burden, and going nine or ten miles an hour.

Charles Leeds, river pilot and witness for claimants, Record, page 423, says, in answer to a question about the character of the Richmond for steering: Well, I have heard that a man had about as much as he wanted to do to steer her; I have heard that, do not know anything about it of my knowledge; that is her character; her general reputation on the river is about that; she has always borne the reputation of being a boat that required a man to be on the alert all the time; the intention of the law in regard to whistles, at least it is so understood by pilots, is that the duty of the descending boat to answer that signal; and the ascending boat is to keep out of the way of the descending boat.

John T. McCord, clerk of the Richmond, Record, pages 438

to 440. [This witness was in bed and did not see the collision; when he got up he found the Richmond pointing for the shore; he says he heard the Richmond's stopping bells and then her backing bells, and that this was before the collision. Now either he, or the engineers are wrong in this; first, because there was no stopping bells rung, but the gong to back, consequently he could not have heard them; second, because the gongs were rung to back sometime after the last and only whistle on the Richmond, and not before, as this witness states. Now, applying the rules of law, *falsus in unum falsus in omnibus*, to the testimony of this witness, it will require no further review.]

Patrick Kane, a deck hand on the Richmond, page 467, states that Mr. McCord, told him not to put anything on the bow of the Richmond because she was broke down there. On page 166 he says they came together at right angles; that the Sabine struck them on the starboard knee, and broke that in. On page 465, he says he was on the boiler deck, and retreated back when he saw them coming together. [This would explain in part his stupidity, as the Sabine did not strike the Richmond at the knee, but the Richmond struck the Sabine in the bow. This fact is shown beyond any possible doubt, but this stupid witness undoubtedly never stopped to look; he was retreating from what he conceived to be danger; but after that is past, is ready to swear to anything.] On page 467, he says: the Richmond was going up the shore and that they had not got far enough up to make their crossing. On page 469 he says the cotton falling from the Sabine broke the knee of the Richmond. A little farther on, he says it was not the cotton broke it.

Altogether, the testimony of this witness, on its face, shows that he is unworthy of belief, and like that of most of the witnesses for the claimants, is full of contradictions, statements of facts they did not and could not know anything about, from the positions they occupied, and yet willingly swore to anything they believed would exonerate the Richmond. In fact, they appear to have come posted with but one or two ideas; the first was, that they heard the Richmond's whistle; the second, her stopping bells, which we have shown were never rung; the third, that they heard her backing bells before the collision; the fourth, that she was going back before the collision and the fifth, that the Sabine struck the Richmond about the knee, which, together with the out-rigger on which it rested, was broken. At this time the Sabine was supposed to be totally lost, and that she would never reappear to contradict the formidable array of ignorant deck hands, and firemen brought forward by the Richmond, who were ready to testify to almost anything that might be required. But there is such a thing as proving too much an error that the claimants in this cause have fallen into, in two respects. In the first place they have shown by their own testi-

mony that most of their witnesses are unworthy of belief: First, because they contradict each other; second, because they swear to things they did not, and could not know anything about, from the positions they occupied, and third, because they show that the Richmond was headed right square for the right shore, and was within about a hundred yards of it; that the Sabine was coming down parallel with the shore at the time of the collision; that the Richmond had at most made but half a revolution with her wheel backwards at the time of collision; and that if she had not struck the Sabine she would have struck the bank with great force and probably have sunk herself, as she could not have turned Twelve Mile Point without backing out and straightening up, being but two hundred yards under the point, and a hundred yards from the shore, which would have brought her inside the point. This is well explained by her own pilot, Mr. Cayton, whose testimony we have quoted. But this is in keeping with the other acts of the claimants of the steamer Richmond. When the Sabine was sunk, the first thing the master of the Richmond did after getting the master of the Sabine on board his boat, was to press him to abandon the Sabine and her cargo to him, that he might make a salvage case out of her, after having sunk her, insisting that he understood the master of the Sabine to surrender the boat and cargo to him, when he peremptorily said that he would not do so. This is shown by the testimony of Mr. Fuller, the clerk of the Sabine, and Capt. N. C. Selby, her master.

Again: When the Richmond was first libelled in this cause, the claimants filed a cross-libel, claiming $12,500 for damage to the Richmond, which damage consisted of a broken knee and out-rigger, a small piece of one plank broken in the bow, and a twisted stem, which the testimony shows they had repaired at an expense of $517, by Jessee McHaffie. This was put in as what is sometimes called a bluff game. They did not suppose the owners of the Sabine would be able to give the bond necessary to respond to the cross-libel, and had an order made to release the Richmond in the event of the owners of the Sabine, libellants, failing to give the large bond that would be required to answer this large claim. The court, however, reduced the bond to $8000, which was given by the libellants, and thus this little game of bluff was blocked off. This cross-libel required an oath, but men who had swallowed a camel in the production of the witnesses we have referred to, were not going to strain at this gnat in the shape of an oath, and they made it without hesitation. Again: When this cross-libel was filed the steamer Richmond was represented to be one of the finest boats on the river, and worth a great deal of money; and that she was making money, when the slight injury we have mentioned above as being sustained by her was equal to $12,500; enough of money to buy

or build an ordinary steamboat. Subsequently, the claimants concluded they would bond the Richmond, and to do so it became necessary to change their tactics, and show that she was an old, worthless boat, that never had and never could make a dollar; that no one was willing to own her, or would give anything for her. Well, this they did in a most scientific manner. They brought forward a number of witnesses and showed her to be not worth at the outside more than $25,000; the libellants produced others to show that she was worth much more than that sum. The Court fixed her value at $30,000, and permitted them to bond at that amount, the libel claimed much more, however. We will now return to the evidence.

John V. Jack, carpenter on the Richmond, states in substance, pages 477 to 489, that he did not see the collision and did not know that it took place, being in bed at the time; he pretended to be an expert; said he was a carpenter for twenty-five years, and from his knowledge of these things came to the conclusion that the Sabine had run into the Richmond; that the blow was a side one, and that the stem of the Richmond did not penetrate the Sabine. [This testimony, taken as a whole, shows that it is full of contradictions, impossibilities and ignorance of the grossest kind.] On page 488 he says: My opinion is, that the Sabine was drifting down the river, and that the Richmond was trying to get away from her; that the Richmond was not in motion; that she could not have been going ahead, because when we struck the object we were going back away from her; I was in bed when they struck. [He was in bed, yet he does not hesitate to swear that the Richmond was going back. This man would have sworn to anything, and the statements we have quoted from his testimony shows it clearly. He proceeds and follows these statements by numerous others equally absurd. This ignorance appears on page 489, where, in answer to the question: Do you know what a right angle is? he says: Well, slightly. Q. What is it? A. One parallel line with another.]

R. D. Courts, mate of the Richmond. [This is the ubiquitous individual who should have been on the watch, and whom the witnesses of the claimants have placed nearly all over the boat at the time of the collision. The striker, as we have shown by his quoted testimony, had him in the engine room coolly looking at the Richmond backing when the boats came together; the second mate had him sitting in the cabin of the boat; the pilot had him on the roof; we will see where he puts himself.] On page 491, when asked to state what he knew of the collision, he said: Well, I suppose it was after two; I could not say, because I did not look at my watch. I was going down stairs and met the second mate, and told him to go to bed. [The second mate stood watch with the captain and came off watch at one, and it was not probable he was poking about an hour and a half after.] So he

started to go; he looked sleepy enough. He went down in the office to get his overcoat and then came out on the boiler deck, and heard the whistle blow; he forgot to state that while on the roof the whistle blew one time before he went down stairs. [It was his duty not to have left the roof when he heard that whistle.] He did not see anything in sight; he went down stairs and got his coat, and as soon as he came out on the boiler deck the whistle blew again; only one whistle. He started up the steps forward, and when he got on the roof he heard the bell to stop and back. [The two strikers and the engineer swear that there was no bell rung to stop, but the gong to back; and one of them says this man was in the engine room at his request, watching how strong the boat backed. But he continues:] And at the same time I saw this light, but did not know there was any danger at that time. After he rang his bell to back, I saw a boat coming down which appeared to be going into our larboard, or getting in the middle of the river off from us. After he had rung the bell to stop and back, he blew his whistle again, which was crossed. [This statement is contradicted by the two strikers, the engineer and several other witnesses on the Richmond. The backing gongs were not rung until sometime after the last whistle from the Richmond; and the two strikers and the engineer heard her blow but once.] He says: I hallooed to somebody on that boat to stop that boat. [This statement is also contradicted. Mr. Davis, the second mate of the Richmond, a witness for intervenors, states at page 194: Q. Where was Mr. Courts? (at the time of the collision.) A. Well, he told me he was sitting down in the hall in a chair; I did not see him there; he told me so; he did not tell me he was asleep, but that he was sitting down there when the boats came together and came out to see what was the matter. This witness also states that he came off watch at one, and it was Mr. Courts' watch. And on page 192, he says the first mate told me he was going down to take a rest; he was not in sight; he told me afterwards that he was sitting down in a chair in the hall; he was not in sight; I did not see him. He also states that he was on the roof, and there was no other person there at all; he supposes the captain was asleep. The testimony of this witness is corroborated by that of Michael Walsh, another witness for intervenors, at page 202 of their testimony. He says: I was forward on the starboard side. And again: About half an hour before the collision I saw this first mate, perhaps three-quarters of an hour before; I saw him on the forecastle, go up stairs; I could see no officers forward on the Richmond at the time of the collision; if any of the officers had been there I would have seen them. The testimony of the captain and mate of the Sabine also show positively that neither this mate nor any other person was on the hurricane roof of the Richmond; that they were on the roof of the Sabine when the

Richmond's head was seventeen feet into the bow of their boat; and after she had swung alongside of them they were shouting for assistance and eagerly scanning the roof of the Richmond to find some one to give them an answer, but could find none; there was no one on it.] But we will recur to the testimony of Courts: Q. Did you get any reply? A. No, sir; not that I know of; I did not hear any; I saw Capt. Green at the same time; I saw him forward of the Texas talking with the pilot, and he asked him if he was backing with both wheels. [Now the pilot does not pretend that Capt. Green was present at all; and we have shown by Capt. Green's own statement to Capt. Selby and Fuller, in presence of Mr. Levy, that he did not see the collision; that he was in his room at the time, and when he came out and saw the river full of cotton he supposed it was drift-wood, and thought the Richmond had run into a rack-heap. Nor dare he deny making this statement; and when questioned about it, said he did not recollect making it. He found it convenient to have a short memory, but took good care not to commit himself.]

Again, at page 492, this witness say the Richmond was headed up stream when he came back on the roof, he supposes about one hundred yards from the shore. [This statement is contradicted by nearly every witness on the Richmond and Sabine; even the pilot of the Richmond admits that she was headed for the right hand shore going up.] On the same page he says the Sabine was headed to the right hand shore. On page 493, he says the Richmond was headed for that shore when she struck the Sabine. Here we have him contradicting himself, as he stated previously that the Richmond was running up the shore. On page 491, he says he saw Capt. Green forward of the Texas, talking to the pilot, and lower down on the same page he said the wind was blowing so hard, that he could not tell whether it was two or one whistle that the Sabine blew, yet he pretends that he heard the captain talking. And on page 493, he says when he saw Capt. Green he was nearly half way between his room and the bell (his room is forward of the pilot house some distance, much lower). On page 494, he says: when we first saw the Sabine she appeared to be coming down to our larboard, down the middle of the river; we thought she was going down on our larboard side; that he afterwards saw her change her course; when they come together, he noticed her going to the shore: they were not over fifty yards apart then, as near as he could tell. Again, on same page: our boat did not cross the stream at the time of the collision; we were headed towards the right hand shore; I suppose from the appearance of things that I saw, that if we tried to get at the other side she would have hit us on the starboard instead of the larboard side.

This testimony shows clearly that this man did not see the collision, and knew nothing of it, as the proof is beyond contro-

versy, that the Richmond's bow ran into and actually penetrated the starboard bow of the Sabine for a distance of seventeen feet. This man does not, however, hesitate to swear *that the Sabine run into the Richmond.* On page 496, he says he saw the stem of the Richmond strike the Sabine; that it did not penetrate at all much; just got a side mash; he supposes it was hard handling broke the timbers of the Sabine. On page 497, he does not think the stem of the Richmond got quits as far as the capstan of the Sabine; he does not know what knocked it down; that it is very easy to tell what broke the planks of the Sabine up to the capstan; he supposes it was the bow of the Richmond done it; he is no carpenter, and does not know how the stem of the Richmond got there. Again, on same page, he says, at the moment of the collision the Richmond was pointed for the right hand shore going up, and was about one hundred yards from it, more or less. Now, if the Richmond was pointed for this shore, the Sabine must have been coming down it in order to be struck on the starboard bow. [And again, on same page and next, he says: The Sabine was on our larboard. If this was the fact, the Richmond could not have struck her on the starboard, unless the Richmond was headed nearly the same way, and that we have seen was down stream.] On page 498, he says he was on the boiler deck, foot of the steps, when he heard the engine bells ring, the stopping bells, on both sides, and the gongs on both sides; of course he is certain he heard all these bells or he would not say so. [We have shown above that these stopping bells never were rung at all, consequently, the positive statements of this witness in this particular, are incorrect.] Again: on same page, he says: After he got on the hurricane roof he heard another whistle from his boat. [Here we have him contradicted again. The proof is positive from both the pilot and engineers, that the gongs to back were not rung until sometime after the last whistle was sounded by the Richmond.] Again: When he got on the hurricane roof, he supposes the boats were fifty or seventy-five yards, more or less, apart (before he had them one hundred yards apart.) Again, that it might have been a minute and a half, may be more than two, before they came together; yet they were but fifty yards apart and coming together at the rate of more than ten miles an hour. Again: he went down to get his overcoat; his room is in the Texas; the Texas is not on the boiler deck; his coat was in the office; when he went down he talked a minute or two to Capt. McCord; this was the clerk. Unfortunately for the veracity of this story, this gentleman was in bed.

See testimony of Capt. McCord, page 438: Q. Where were you when you heard the first whistle of the Richmond? A. In my room, in bed. Then it is extremely improbable that the clerk of the boat would leave his office open after he went to

bed, and still more so that this man's coat would be in the clerk's office, or any other place but his room. Again: It is shown conclusively that the first whistle from the Richmond was blown at the cars, when she was near Nine Mile Point. The collision took place about two hundred yards under Twelve Mile Point. Supposing the Richmond was going ten miles an hour, it would have taken her about fifteen minutes to make this distance of three miles. Now, this witness pretends to have been on the roof when the first whistle was blown; to have then started for his coat, and to have talked but one or two minutes with a man that was in bed and asleep, and before he got back to have heard the signal whistle; and yet is absent only two or three minutes. The thing was impossible and improbable in every sense of the word. Again: The night was wet, cold and blowing hard and he must have been exposed if on the roof; yet he did not think of getting his over-coat until the boat had made twelve miles, which would have occupied nearly an hour and a half. On page 500, a few questions were put to him, his answers to which can leave no doubt but that he was taking it easy in a chair in the cabin at the time of the collision: Q. You were exposed to the weather all the time, from the time you left the elevator until the time you went for your over-coat? A. I did not have the over-coat. Q. I want to know if you were exposed? A. Well a man would not stand out in the rain if he could get shelter. This is the principle witness acted upon even though duty required him to be on the forward part of the hurricane roof. On same page, he says: At times it rained pretty hard, and he had not thought of his over-coat until he went down stairs, a short time before the collision. Now, this story is too improbable to require comment, taken in connection with his previous statement that a man would not stand out in the rain when he could get shelter. He got his shelter in the cabin of the boat and he admitted that fact to the second mate, as we have shown above.

N. S. Green, master of the Richmond. This witness was in bed at the time of the collision and was seen by Capt. Selby coming out of his room in the Texas, putting on his coat, when the Richmond came back to the Sabine after the collision occurred, and who admitted to Selby, Fuller and Levy, as we have shown above, that when he first came out of his room he saw the river full of what afterwards proved to be cotton, that he thought his boat (the Richmond) had run into a rack heap, that is a pile of drift wood; ye he had the hardihood to come forward and pretend he saw the collision. The claimants, however, took good care not to produce either this witness, or their mate, Courts, until all the testimony was closed, and the testimony of the libellants actually printed, thinking they could then slip the testimony of these two witnesses in uncontradicted. In this,

however, they missed their mark, as they did in several other respects as we have shown above.

The libellants recalled two of their witnesses and showed the admission of this witness to them in presence of Mr. Levy, who had gone away, nor would he deny he made the statement, which showed he knew nothing of the collision until after it had occurred, but he stated he did not know that he had such a conversation; in other words that his memory was short; but at the same time he took good care not to deny the conversation, and the admission it contained. We will review but a short portion of his testimony, relying upon the admission stated above, and the numerous contradictions and inconsistencies with which it abounds.

On page 507, he says: I did not hear the gongs ring; I heard the bells ring to stop, but I did not hear them in my room; I have got very large bells there so that I can hear them. [Now, we have shown by the engineer and the strikers, that there were no backing bells rung, but the gongs were rung, and on the strength of these they backed without hearing the stopping bells. This shows that either he, or they were not telling the truth; but as they are all witnesses on the same side, and there is three against one, and these three were undeniably on watch, and from their position in the engine room much more likely to know what signals they received and what they did, the weight of testimony is certainly in their favor, and against the statement of this witness. Again: On page 514, his testimony conflicts with that of his own mate, and we are again at a loss who to believe. This is shown by the following questions and answers: Q. When you went out in your night clothes, just before the collision occurred, who did you see standing on the hurricane roof of your boat? A. I saw my mate. Q. Did you know that he had just come up from the lower deck? A. No, sir; he was there; he stood out forward of the bell, up between the Texas and my room, at the bell. Q. He left the hurricane deck and returned before you came out? A. Yes, sir; he was there before I came out.

We now quote from the testimony of Courts, the mate, page 504. Q. Did you bring your overcoat up when you came up after you went down to get it? A. No, sir; I brought it sharp on the boiler deck. Q. Was he (Capt. Green) up there (on the hurricane deck) before you? A. Yes, sir; he was up there before I went up; he was standing half way between the bell and his room; this might have been two minutes before the collision. [Here we have the Captain swearing that the mate was on the roof first, that is before he came there, and the mate swearing that the captain was there first, and the truth is neither of them were there as we have shown by the testimony of the master and mate of the Sabine, referred to above; but these witnesses are

inconsistent in other particulars. The captain says he was at the bell; the mate says he was between it and his room. Again: why did not the mate bring up his overcoat he had gone for nearly fifteen minutes before? Why did he drop it so hastily on the boiler deck? He says it might have been two minutes after he got on the roof before the boats came together. He certainly had abundance of time to bring his overcoat up with him if such was the fact. We strongly suspect the fact was, the boats actually collided before he came out of the cabin; that he dropped this overcoat on the way to the main deck, and that he never went to the roof at all. The testimony is most conclusive on this point, as the officers of the Sabine could see no one there, and their testimony on this, as well as every other fact they have stated, is uncontradicted in the slightest particular.

But to return to the testimony of Green: Q. Did the stem of the Richmond penetrate the Sabine at all? A. I do not think it did. [The testimony to show that the stem of the Richmond did penetrate the Sabine for seventeen feet, is overwhelming and the boat herself showed the model of the Richmond's bow into her that distance; yet this witness does not hesitate to give his opinion that she did not penetrate, but at the same time he does not know what did. His testimony shows altogether a determination to swear out of the scrape, if swearing will do him any good.]

On page 515, it appears that this same steamer Richmond, since the collision with the Sabine, collided with a ship at the wharf, crushing in her bulwarks for fifty or sixty feet. This would go to show that she is famous for collisions in consequence of her bad steering. We have shown that she collided with the steamer Wild Wagoner; on one or two occasions she ran into the bank of the river; then she sunk the Sabine and a short time afterwards ran into a steamship lying at the wharf. She is certainly a dangerous boat, as we have shown by Capt. Gross, the pilot of the Wild Wagoner, who had to stop that boat and let her go by him, because she steered so wildly.

See questions and his answers on page 513. Q. On the moment after the collision occurred, did you not, on board of your boat, the Richmond, in presence of Capt. Selby, Fuller and Levy, tell them that when you saw the cotton of that boat, that you thought you had run into a rack heap? A. I do not know that I had any such conversation at all. Q. Did you make a remark to that effect, or that remark itself? A. I do not recollect making any such remark as that. Q. Are you prepared to say that you did not say so? A. I have answered the best I can in regard to that, but I have no recollection of having any conversation about it at all.

This shows clearly that the witness did not see the collision; if he saw it he would have been able to answer that question at

once by saying: "I had no such conversation, and could not have done so, because I witnessed the collision and knew my boat ran into a boat loaded with cotton and could not have taken it for wood, as I knew the contrary." But he took good care not to deny this conversation. He knew there were three witnesses to it, and he feared the consequences.

We have now reviewed the testimony of all the witnesses, both on behalf of the libellants and claimants, bearing upon the collision between the steamboats Sabine and Richmond, on the morning of the 11th February, 1872, with the exception of some witnesses on behalf of claimants, who have testified in regard to the usual course pursued by ascending and descending steamers in their navigation between Nine Mile and Twelve Mile Point. We consider this testimony, taken as a whole, rather in favor of the libellants. From the testimony thus reviewed, we think the following facts are clearly shown:

First. That when Mr. Harrison, pilot of the Sabine, first discovered the Richmond, the Sabine was turning Twelve Mile Point, in the middle of the river, the usual course for a descending boat, and the Richmond deep in the bend on the left hand side ascending, an unusual course for her, and distant about one mile. He then gave one signal of two whistles for the larboard side, and immediately signaled the engineer on watch to slow his engines, which was done, and he starboarded his helm to bring the Sabine closer to his larboard shore, the left bank of the river descending. Receiving no answer to this signal, he gave another signal of two whistles, and immediately rung the stopping and backing bells of the Sabine, which were promptly obeyed by the engineer on watch, Mr. Thomas J. Henry; that this signal was immediately crossed by the Richmond, one whistle, calling for the same side as that previously claimed by the Sabine. At this time the Richmond was coming square across the river and the Sabine down it, within about one hundred yards of the left bank, which she had gradually approached in the mile she had to run from the time she first discovered the Richmond deep in the bend on the right bank of the river, and that the Richmond ran into the Sabine about two hundred yards under Twelve Mile Point, striking her on the starboard bow, about the cavil, penetrating her bow for seventeen feet, from which blow she sunk in a few minutes afterwards. We will here remark, that the testimony on both sides is almost unanimous that the Richmond gave but one signal for the Sabine; this is excluding the one she blew for the cars, which has led to considering confusion in the minds of the witnesses for claimants. These cars were met by the Sabine above Twelve Mile Point, and by the Richmond near Nine Mile Point. At that time the two boats must have been nearly six miles apart, and entirely out of sight of each other, that is when they saw the

cars, and approaching each other at the rate of between sixteen and eighteen miles an hour, probably more. The cars were going down and passed the Sabine first. Nearly all the witnesses on the Sabine describe her two signals of two blasts each, and the one given by the Richmond in reply; and in this they are corroborated by the strikers, North and Callow, and also by Wilson, second engineer of the Richmond. These men were all on watch at the time, and the first of them said: If the Richmond had blown any more than the one whistle, he would have known, for he paid attention, (Record, page 376, claimant's testimony.) There is some other testimony on the part of claimants corroborating the above.

Second: That the Richmond had two red lights, one on the larboard chimney and one on a flag-staff aft of the chimneys, but no green light. This is clearly shown by the testimony of Harrison and Ensminger, pilots of the Sabine; also, by John Douglass, watchman, and M. C. Levy, third clerk. All of these witnesses were on the roof of the Sabine at the time of the collision, and three of them in the pilot house. It is true the claimants have produced two or three witnesses to show that they had the green light on the starboard chimney; but none of these witnesses pretend to have seen it at the time of the collision, or previous, but two of her clerks say they saw it after the collision, and their watchman pretends to have taken it down in the morning lit. Now it was a very simple operation for some one on that boat to have taken the lamp down after collision, lit it and hoisted it again, and thus deceived both these clerks and the watchman also. This was an operation that could have been performed in five or ten seconds. It is clear that these five witnesses on the Sabine could not have been mistaken. If the light was there, they must have seen it, unless the Richmond was coming into them quartering down stream. In that event, the chimney might have concealed it from their sight; but still they must have seen it when the Richmond first came in sight, as she was then coming up the river in the bend.

Third: That there was no person on watch on the roof of the Richmond at the time of the collision. This fact is shown beyond any possible doubt; *first*, by the testimony of Capt. Selby, master of the Sabine, who could find no one on the roof when shouting for assistance and saw Green coming out of his room putting on his coat, when the Richmond came back to their assistance after the collision; *second*, by the admission of Capt. Green, master of the Richmond, to Capt. Selby, Mr. Fuller, first clerk, and Mr. Levy, third clerk, of the Sabine, that when he first felt the jar, he thought his boat, the Richmond, had run into the bank, and when he came out of his room and saw the river full of cotton, he thought his boat had run into a rack-heap, taking the cotton for drift-wood; *third*, by the statement

of Courts, mate of the Richmond, whose watch it was, and duty to be on the roof, that he did not see the collision, that he was sitting in a chair in the hall, made by him to Mr. Davis, the second mate of the Richmond, a witness for intervenors, page 192, and the testimony of Michael Walsh, also a witness for intervenors, and a deck hand on the Richmond at the time of the collision, who states, Record, page 202, that the mate's place was on the roof. and he was not there.

Fourth: That the Sabine was, and had been backing for some time previous to the collision, and had stern way at the time. This fact is clearly shown by the testimony of Harrison and Ensminger, the pilots of the Sabine, Dan Turnell, the mate, John Douglas, the watchman, and M. C. Levy, the third clerk. Most of them testify to this fact, because the Richmond was first coming into them about the after end of the boilers; they all thought she would strike them there; the stern way of their boat, however, prevented this, and she came into them within a few feet of the bow, and a long distance from the place she was first pointed at.

Fifth: That the Richmond was under full headway at the time of the collision. This fact is clearly shown by the testimony of the five witnesses we have quoted above, and their testimony is corroborated: *first*, by the effects of the blow upon the hull of the Sabine, as no stationary boat could have inflicted that cut, and gone through seventeen feet of timber, ranging from three and a half to six inches in thickness, and breaking the cast-iron cogg wheels for working the capstan and knocking it over, the strongest thing about the boat, and capable of pulling her ashore; *second*, by the testimony of the striker and second engineer of the Richmond, which shows that she was only backed a moment before the collision, having made but half a revolution backward on the starboard engine, which was totally insufficient to have any perceptible influence in checking the headway of a large boat like the Richmond, of about two thousand tons burden, and going between nine and ten miles an hour; *third*, by their bumping together when the momentum of the Richmond was stopped by the collision.

By Rule I, adopted by the Board of Supervising Inspectors, under an act of Congress approved 28th February, 1871, for the government of pilots of steamers navigating the rivers flowing into the Gulf of Mexico, and their tributaries, it is provided that when steamers are approaching each other, the signal for passing shall be one sound of the steam whistle to keep to the right and two sounds of the steam whistle to keep to the left, the signal to be made first by the *ascending* steamer. If the dangers of navigation, darkness of the night, narrowness of the channel, *or any other cause*, render it necessary for the *descending* boat to take the other side, *she can do so*, by making the

necessary signal, and the *ascending steamer must govern herself accordingly.* These signals to be observed by all steamers either by day or night.

We have seen by the evidence quoted above, that the Sabine, as the descending steamer, had the choice of sides; that she had a cause for choosing the side she did, her pilot believing the ascending steamer to be deep in the bend on the opposite side of the river; that she blew twice for the side she was finally sunk on; first, when the Richmond was nearly a mile off, and again when they were much closer, and had backed her engines; and that the Richmond violated this rule in attempting to take this side of the river from her, by coming square across.

By Rule II should steamers be likely to pass near each other and these signals should not be made and answered by the time such boats shall arrive at the distance of eight hundred yards from each other, the engines of both boats shall be stopped, or should the signal be given, and not properly understood from any cause whatever, both boats shall be backed until the headway shall be fully checked, and the engines shall not be again started ahead until the signals are made, answered and understood. Doubts or fears of misunderstanding signals shall be expressed by several short sounds of the whistle in quick succession.

The evidence we have quoted above shows that the Richmond did not comply with this rule. Duffy, her pilot, says, R. 360, the Sabine was a mile off when he discovered her, at this time he was making a long crossing from a plantation called Kennedy's, one mile above Nine Mile Point, (that would be two miles from Twelve Mile Point) and was about half way up from Kennedy's house to Twelve Mile Point (that would put him in the middle of the river which we have seen was from one mile to three-quarters of a mile wide) but he says, and I suppose not over 150 yards of the right hand shore going up, or geographically the left, but by the time he discovered it was a boat he was half a mile off, he then gave one long loud whistle, she replied by two, and instead of stopping and backing, he pulled closer into that bank, the side he admits he blew for, and sunk her there within 100 yards of that shore, according to his own statement, and closer to it than he had ever seen a boat before; now supposing this statement of Duffy was true, though we have shown the contrary, the rule says that he should stop and back; he did not pretend to do this though he had ample time, but he pulled his boat closer into the shore he knew the Sabine was on, where he had seen her when a mile off, and for which she had signaled when half a mile off, instead of pulling his boat from that shore; he had the whole width of the river on his left, and if he was going up the shore he could have pulled her from it as well as to it; and if he was within 150 yards of the shore, he was 100 to 150

yards too close in to round Twelve Mile Point, according to the testimony of his partner, Cayton; but there is another view to be taken of the story. The Richmond is 340 feet long; when she struck the Sabine she was headed directly for the shore coming at it in a right angle; now if she was running up the shore and parallel with it at a distance of 150 yards, when the Sabine was half a mile off, it would be simply impossible for her to turn and get her head square into the shore in 50 yards, the distance between her track and the place where the Sabine was sunk, 100 yards from the left bank, she was over 112 yards long and could not by any possibility have turned and be brought at right angles with that course when going up the river at the rate of 10 miles an hour in a distance of 50 yards.

By Rule IV, when a steamer is ascending and running close on a bar or shore, the *pilot shall in no case attempt to cross the river, when a descending boat shall be so near that it would be possible for a collision to ensue therefrom.*

The facts disclosed by the evidence we have quoted above, show that the Richmond violated this rule as well as the first and second, and that the attempt she made to cross the river when the Sabine was descending it, did cause her to run into and sink the Sabine.

Rule XVI, prescribes the lights to be carried and the place they should be hung. We have shown that the Richmond had two red lights and no green one.

It has been repeatedly held, that where a collision has occurred, and one vessel has been guilty of some negligence, the burden is on her to prove that this negligence is not the cause of the collision. The Schooner Lion, 1 Sprague, 40; The Ango Norman, Naob. R. 482; Clapp vs. Young, 6 Law Rep. 111; Bullock vs. Lamar, 8 Law Rep. 275; Waring vs. Clark, 5 Howard, 144; The Emily Olcott, 132; Cushing vs. John Fraser, 21 Howard, 184.

Nor is it enough to show that the collision could not have been prevented at the moment, if it might have been by previous precautions: 2 W. Rob. 201, 205; Steamer New York vs. Rea, 18 Howard, 223-4; The Clement, 2 Curtis, C. C. 363; Wakefield vs. Steamer Governor, 1 Clifford, C. C. 93.

Now in the case at bar, we have shown that the Richmond was in fault in five different particulars quoted above.

For these reasons we respectfully ask for a decree in favor of the libellants and against the steamboat Richmond as claimed in the libel herein filed.

Respectfully submitted.
BENTINCK EGAN,
R. H. MARR,
Attorneys for Plaintiffs.

ANSWER TO BRIEF OF CLAIMANTS.

In this case, as in most collision cases, the witnesses on the one side and the other, contradict each other in many particulars; and it is only by attention to certain well-established, indisputable facts, that we can hope to arrive at the truth, touching the question of fault.

The undisputed facts in the case are: That the collision occurred under, a short distance below, Twelve Mile Point, and within one hundred yards of the point shore, the right shore ascending. That the Richmond sustained but little injury, while the Sabine was cut into about half her width, through her heavy forward timbers, up to the capstan, so that she sunk in a very few minutes: That the Sabine was descending the river and was injured on the starboard side; and that the Richmond was ascending the river and just before and at the moment of the collision, she was pointing almost square into the right shore ascending, so much so that Cayton, one of her pilots, and several other witnesses say, that if she had not struck the Sabine, the Richmond would have gone into the bank. Record, 342, 3.

There seems to be some confusion in the minds of the proctors for claimants with respect to the whistles of the two boats before the collision; and they attribute to the Sabine what they consider the grave fault of crossing the signal given by the Richmond. Now we undertake to say, and shall endeavor to show, that the pilot of the Sabine committed no fault which caused or contributed to the collision.

When the Richmond was about Kennedy's house, on the left bank ascending, and about two miles below Twelve Mile Point, her pilot, Duffy, saw lights to the left of him, which afterwards proved to be the lights of a passing railroad train. Uncertain, at first, as to whether these were the lights of a steamboat, he blew one long blast. R. 355. At this time the Sabine was above Twelve Mile Point, at least two miles off from the Richmond, too far for the exchange of signals, and the boats were not yet in sight of each other. Duffy does not pretend that this was a signal to the Sabine. On the contrary, he did

not see the Sabine until sometime after, when she was coming round the point. R. 339.

Harrison, the pilot on watch, Ensminger, the pilot who had gone off watch, and Levi, clerk, all of whom were in the pilot-house of the Sabine, heard this first blast of the Richmond. They had seen the lights of the passing train just before they heard this whistle; and Harrison thought it might be the *whistle* of the train, with much more reason than Duffy had for thinking the *lights* of the train were those of a boat. Certain it is that Harrison did not understand this whistle as a signal to the Sabine; nor was it so given or understood by Duffy, the pilot of the Richmond.

Shortly after hearing this first blast, and when the Sabine was coming round Twelve Mile Point, he saw a red light, which he took to be, and which actually was the light of a steamboat, the Richmond, deep in the bend, and higher up the river than boats usually run the bend when they intend to cross over to Twelve Mile Point. Ensminger, Levi and others plainly saw two red lights; but neither Harrison, nor any other person on the Sabine, saw, at any time, that night, the green light, which the law requires all steamboats to display, and which the Richmond was bound to have displayed on the larboard side of her starboard chimney, under penalty of unseaworthiness.

Now we insist that it was a grave fault in the Richmond to display two red lights. When two boats are meeting, the red lights on the larboard and the green lights on the starboard chimnies, indicates precisely which way the boats, respectively, are headed. But the display of the red lights by one of the boats tended, necessarily, to confuse the pilot of the other boat, more particularly when he does not see the green light. One of these red lights was on the chimney, the other was on the flag staff, aft of the pilot house; and the pilot of another boat, not seeing the green light, might mistake the one red light for the other, and be totally misled as to which way the approaching boat was headed.

When the pilot of the Sabine first saw this light, which afterwards proved to be on the Richmond, he concluded, from her position, so deep in the bend, so far above the usual crossing, that the Richmond did not intend to cross to Twelve Mile Point; and that she intended to continue up the bend. So he gave two blasts of his whistle, to which the Richmond answered with one blast. The Sabine again blew two blasts, and when the boats were very near together, the Richmond again blew one blast.

The two blasts of the Sabine were not intended as an answer to the one blast first given by the Richmond, because that blast was blown for the passing railroad train, and not for the Sabine, when the Sabine and the Richmond were not in sight of each, when they were at least two miles apart; and when the exchange

of signals between them would have been without meaning and in every way improper and illegal.

Harrison, the pilot of the Sabine, seeing the lights of the Richmond in the bend, where no boat would ordinarily be if she intended to cross over to Twelve Mile Point, having heard no signal from the Richmond, properly determined not to cross in front of her, not to risk a collision by crossing the bows of the Richmond, and not to leave the point shore near which he then was. When the boats were about half a mile apart, at a proper distance for the exchange of signals, Harrison made his election, took the initiative, and gave two blasts of his whistle as an original signal, thereby plainly informing the pilot of the Richmond, who, up to that time had not indicated her course otherwise than by her pos tion in the bend, too high up for crossing to Twelve Mile Point, that the Sabine would keep the point shore, and allow the Richmond to pursue her course up the bend side, the course which her position indicated that her pilot had elected, and intended to pursue.

If it be conceded, which we by no means do, that this was a fault on the part of the Sabine, it was a fault which in no manner contributed to the collision. The boats were then at least half a mile apart, according to the testimony of Duffy, R. p. 360, and of the pilot of the Sabine, R. p. 207, and there was ample time and space for the Richmond to have kept away from the Sabine, and to have avoided the collision. The Sabine was kept close in to the point shore; and almost the entire width of the river was left to the Richmond.

The witnesses who were on the Sabine, say that, shortly after the first signal was given by the Sabine, the Richmond left the bend shore, and came almost square across the river, her head pointing to the right shore ascending, until she struck the Sabine on her starboard side, within about 100 yards of the shore. Harrison's statement of the distance is not precise; but he says he was not noticing the distance, he was trying to get away from the Richmond. The two pilots of the Richmond, and the other witnesses, fix the position of the Richmond within 100 yards of the shore, at the time of the collision. R. pp. 362, 334.

The theory that the Richmond commenced making her crossing at Kennedy's, and was running the point shore, the right shore ascending, depends upon the testimony of Duffy; and he is positively contradicted in this by Harrison, R. p. 207, Ensminger, R. p. 235, and Levi, R. p. 270; and it is wholly irreconcilable with the position of the boats at the moment of collision, and with other portions of Duffy's testimony.

Duffy says he was heading in to the left bank, meaning the right ascending; that he had been heading that way from the time he left Kennedy's, from six to eight minutes before the collision occurred. R. p. 366.

The only change he made, or attempted to make, was to pull his boat nearer in to the point shore: And yet, when the boats were half a mile apart, he heard the first signal of the Sabine, indicating that she was running that shore!

Cayton and Duffy, the pilots of the Richmond, concur in placing the Richmond, in such a position, just before the collision, that she could not have gotten round Twelve Mile Point without backing out. R. p. 342. Certainly she was not in her proper place: her proper place was out in the river far enough to round Twelve Mile Point, and with her head pointing up stream, a little outside of the point, not pointing in to the shore under the point. All the witnesses who are pilots, concur in the statement that, at the then existing stage of water, a boat going up stream ought to have been at least 250 or 300 yards out in the river, and it is not possible to pretend that, if the Richmond had been running up the point shore, at the proper distance, with her head properly pointed to round Twelve Mile Point, it would not have been just as easy for her pilot to have pulled her further out, as it was for him to pull her, as he did, nearer in to the shore. If, when he heard the signal of the Sabine, he had simply stopped his outside or larboard wheel, and gone ahead on the inside or starboard wheel, or if he had stopped and backed both wheels, there would have been no collision. Concede all that may be urged as to the alleged fault of the Sabine in keeping the point shore, she had put herself in such a position, so near the point shore, that the Richmond could have reached her and collided with her, only by going off her course, and putting herself in such a position that, if the Sabine had not been between her and the shore, the Richmond would have run into the bank; a position such that she could not have proceeded on her voyage or have rounded Twelve Mile Point without backing out. The Sabine had literally "fled to the wall;" and, even then, she did not strike, but she was pursued, and struck at a place where she ought to have been out of danger, where the Richmond could not have touched her, if the Richmond, instead of putting in closer to that shore, and heading almost square in to that shore, had simply gone along up the river, in the very track which she would have pursued if she had been navigated properly: the track which the Sabine had left entirely free to her by placing herself 150 yards nearer to the shore than up stream boats are held at that point.

At page 370 Duffy is asked: "Where was the Sabine when the signal was given? Ans. I know she was under the point? How far from it? I think it was not over two hundred yards from the shore: SHE WAS CLOSER THAN I EVER SAW A BOAT."

He had already said, page 369, that the boats were about half a mile apart when the whistles were blown.

This testimony is sufficient, of itself, to condemn the Rich-

mond, and to make her responsible for all the consequences of the collision.

When the boats are half a mile apart, the Sabine is seen by the pilot of the Richmond closer in to the point shore than he ever saw a boat: and then he heard her two whistles, showing that she intended to keep that shore. Of course, being closer in to that shore than Duffy had ever seen a boat, and signalling to keep that shore, she was not in the track of the Richmond, and was, each moment, working off still further from that track. She was inside of the Richmond's track; and the whole navigable width of the river was left to the Richmond. In the name of common sense, why did not Duffy just go on up the river? What hallucination possessed him to pull his boat nearer in to the shore, to point her head square for the shore, and to go one hundred and fifty yards, at least, out of his way? If the Sabine had not been where she was, if there had been no boat in sight, Duffy never would have thought of putting the Richmond where she was when the boats collided: How can he excuse himself for putting her there when the Sabine was already there?

After the Sabine had signalled for the point shore, she got nearer still to that shore, and further from the track of an up stream boat. She was about two hundred yards from the shore when Duffy saw her, closer in shore than he ever saw a boat; and when the boats collided she was within a hundred yards of the shore, and of course, more than one hundred yards nearer that shore than Duffy had ever seen a boat.

If the Sabine committed a fault that night, it was simply the fault of signalling to go, and of going, where Duffy had never seen a boat before, and, consequently, where Duffy would never have thought of running his boat. It was the fault of being entirely out of the way of any other boat going either up or down: and she added to that fault by getting in still nearer to the shore, and further out of the way of any other boat. If these were faults, they were harmless faults; for they not only did not contribute, in the remotest degree, to the collision, but they would have made the collision impossible if the Richmond had merely pursued the usual course of an up stream boat, and had not gone entirely out of her course, and more than 100 yards nearer the shore than her pilot had ever seen a boat.

If it was a fault in the Sabine to put herself more than 100 yards nearer to the shore than Duffy had ever seen a boat, what terms will properly characterize the act of Duffy in pursuing her and sinking her there.

The fact that the Richmond was pointing nearly square in to the shore, and that she struck the Sabine on her starboard side, shows plainly that the Sabine must have been pointing nearly straight down the river. The fact that the Sabine was cut

nearly in two, shows that the Richmond had forward motion, and great *momentum* at the moment of collision.

The Sabine was a stern-wheel boat, and could not be made to swing by her propelling wheel as a side-wheel boat may be. Her stern wheel could only drive her forward or back. She could be swung only by the use of her rudder: and the swinging would be slow and gradual.

Some of the witnesses, with much ingenuity, imagine that the Sabine was caught in the eddy under Twelve Mile Point, and swung down upon the bow of the Richmond, which was backing; and one of the witnesses thinks that the Sabine *just saddlebagged* her bow, by which expression he means to convey the idea that the Sabine swung across the bow of the Richmond, and thus forced the stem of the Richmond through her hull, and heavy timbers, up to her capstan.

As the Sabine had but one wheel, and that at the stern, any swinging that she did must have been occasioned by having her head in the eddy or in slack water, and her stern in the current, or *vice versa*. As the eddy is next the shore, and as the Sabine was pointing nearly straight down the river, her head slightly inclined to the shore, if any part of her was in the current it must have been her stern. At that time there was very little current in the river, not more than two miles an hour, as several witnesses say. It is merely idle to suppose that such a current could cause a boat to swing so rapidly as would have been necessary to have forced her down upon a receding boat, and to have caused the bow of that receding boat to cut half through her.

But the whole of this swinging theory is a mere figment of the imagination, without the slightest foundation in fact. A two mile current would not make a boat swing very rapidly, certainly not fast enough to overtake and strike violently a steamboat backing in the same direction in which the other was swinging. But what puts the whole matter at rest is this: The Sabine was struck near her bow, on the starboard side, by the bows of a boat pointing nearly square in to the shore, so that her head was necessarily pointing down stream. Now, as her head was slightly inclined towards the shore, it was in the eddy, and the stern alone could have been in the current. The current would have forced the stern down, further out from the shore, and the bow would have swung in towards the shore; that is, the Sabine would have rounded in, instead of rounding out: and her bow, instead of swinging down upon the Richmond, would have swung up stream and off from the Richmond. If the Sabine had been thus swinging, her stern might have come down upon the bows of the Richmond; but the forward parts of the two boats never could have touched.

Upon the hypothesis that the Richmond commenced her crossing at Kennedy's, some two miles below Twelve Mile Point,

it is not easy to understand how she cold have gotten her head nearly square in to the right hand shore ascending, and within one hundred yards of the shore. Duffy's testimony, already quoted, shows that from the time he commenced his crossing he made no other change in his course, than to pull his boat nearer in to the right hand shore ascending, after he heard the signal of the Sabine. It was an extraordinary and most unaccountable manœuvre. His proper course, according to his own testimony, would have brought him from two hundred and fifty to three hundred yards off from the shore, below Twelve Mile Point, and holding so as to round the point. Just before and at the moment of collision he was square across that course, and within one hundred yards of the shore. Now if, after hearing the signal of the Sabine, Duffy had time, and sufficient control of his boat, to pull her almost across his course, that is, nearly at a right angle with the line of direction he was pursuing, what prevented his pulling his boat out, and getting as far on the other side of his line of direction? The Richmond is some three hundred and fifty feet long; and it is not possible that she could, by the use of her rudder, have been brought into the position in which she was, if she had been running the point shore, and as near as 250 to 300 hundred yards from that shore. Before she could have been brought round, with her head nearly square into the shore, going at the rate of 8 or 10 miles an hour, she would have run into the bank, inevitably.

But the position of the Richmond is perfectly accounted for by the testimony of Harrison, Ensminger and Levi. Duffy's testimony is that he commenced pointing to the shore, when he began his crossing. The witnesses on the Sabine say the same thing. The difference between them and Duffy is, that Duffy says he began his crossing at Kennedy's; while the witnesses on the Sabine say that when they first saw the Richmond she was considerably above Kennedy's; and that when she left the bend shore, she headed nearly square across the river, and continued that course till she struck the Sabine.

One thing is certain, according to Duffy and the witnesses on the Sabine, when the Richmond began her crossing, she held for the point shore, and she made no change, she attempted no change, except that she pulled nearer to the shore.

When signals are crossed, or not understood, it is the duty of both boats to stop and back, until their headway is checked, and the engines are not to be again started ahead until the proper signals are made, answered, and understood. Rule II.

Now what did the two pilots do? Harrison, the pilot of the Sabine, says, R. p. 208: "As soon as I blew, and she blew one crossing mine, the very instant she did, I stopped my boat and started her back." He repeats this on cross-examination, R. p. 213; and his testimony is corroborated by that of Henry, the

engineer; R. p. 270, Ensminger, pilot, R. p. 235. Trunell, the mate, R. p. 259, Levi, the clerk, R. p. 270, and Douglass, the watchman, R. p. 255. He, therefore, did all that he could, and precisely what Rule II requires.

Duffy, the pilot of the Richmond, says, R. pp. 360 and 361: That the Sabine was about half a mile off, when he blew his signal, and she replied by two whistles; at page 369, he says the Sabine answered immediately. At page 361, he says: "After she had blown her two whistles, I pulled in still closer to the shore, nearing it all the time, until I stopped my engine and backed her; at the time I had stopped and my engines backed, I suppose I was within two hundred and fifty or three hundred yards: then the gong rung, and that is all I can tell."

Now, it is very certain that the Richmond did not get any nearer the shore by backing; and it is equally certain that if she stopped when she was two hundred and fifty to three hundred yards off, she had such headway, that she still continued going ahead, and had gone from 150 to 200 yards when she came in contact with the Sabine. She would have gone the distance in less than a minute, too short a time to have allowed her engines to be stopped and backed.

There were several witnesses who could and who did tell a very different story about the bells and engines, than that told by Duffy; and they were the second engineer and the strikers, or assistant engineers of the Richmond.

North, striker or assistant engineer, as he calls himself, R. page 371, was standing in the engine room; the first thing he heard was the whistle; the next thing was the bell to stop was rung on the larboard side. Wilson, second engineer, stopped the larboard engine. "I went aft on the foot box, and the bell rung to come ahead again. I went ahead and made two or three revolutions ahead; and the next thing was both gongs rung to back her."

This witness says another thing, which it is well enough to bear in mind. In his zeal and anxiety to prove that he was backing he says: R. p. 376. "I made the mate take notice of her backing, and heard her timbers cracking; that is, before she came into the other boat."

The mate says he was forward on the roof. R. p. 491. He could not have been there if North tells the truth. He must have been in the engine room.

Callow, striker, who was at the starbord engine, heard one whistle from the Richmond. He judges it was about a minute after when the larboard stopping bell rung; then it rung to come ahead; then it rung to back; and short after the starboard bell rung to back; that is the gong. R. page 389.

There was no signal given to stop that engine; there was one given to back. The second engineer backed it, 390.

And on R. page 391, he says he stopped the larboard engine. "The second mate stopped the starboard engine, and rushed past me after I had stopped the engine."

This *rushing* shows plainly that the engines were not backed until the boats were almost in contact, and the second engineer had a knowledge of the imminence of a collision.

Wilson, the second engineer, says, at R. p. 397, that he noticed that the starboard engine made half a revolution back; after that I do not know how many, but I think she made two or three; I can't say exactly.

On R. page 398, on cross-examination, Wilson says that the difference between the ringing of the bells to stop the larboard engine and the ringing of the bell to go ahead again, was just while he was walking ten steps.

The gong is not the stopping bell; it is an alarm. When the engines are in motion, the sounding of the gong means give her all the steam you have. When the engine is in motion, going ahead, and the pilot wants to back, he rings the stopping bell, the same bell which he rings to go ahead when the engine is not in motion. When the engine has been stopped, the sounding of the gong is to back.

So the three persons who were in the engine room, noticing the bells and handling the engines, do not support Mr. Duffy. Mr. Duffy did not ring his bells to stop, and then commence backing. He did ring one bell, to stop the larboard engine, and it was stopped just while Wilson was walking ten steps; but this could not have sensibly effected either the speed or direction of the boat. Then he went ahead again on that engine, so that both engines were going ahead: And then, suddenly without previous warning, he rang both gongs. No doubt everybody that was up on the Richmond, knew by this time that there was danger. This unusual ringing of both gongs, while the engines were going ahead, without taking time to ring the stopping bells, shows that stopping and backing had not occurred to Duffy until the last moment, when it was too late. Why he stopped the larboard engine, and immediately went ahead on it again no one has attempted to explain, nor can any one explain. One engine, the starboard, made half a revolution back, it may possibly have made two or three, but that is by no means certain; and Wilson says it would take six or seven revolutions to give the Richmond sternway; and that, in the first minute he can give her about six or seven back revolutions. R. page 401.

Apart, therefore, from the terrible effect of the blow on the Sabine, which could only have been given by a body moving rapidly and striking violently against her, the testimony of the pilot and the engineers of the Richmond proves conclusively, that the Richmond was not, could not have been receding; and

that she ran into the Sabine at a rate of speed little less than that at which she was going when the gongs sounded.

One of the strikers says, they have a rule on the Richmond, adopted in consequence of her having run into the bank, to stop and back, whenever the gong is sounded while the engines are going ahead. This is rather apocryphal, in itself; and Wilson, the second engineer, says he knows of no such rule, R., p. 399. Why then, were the engines of the Richmond backed? The signals, the gongs, meant go ahead with a full head of steam: and if the engines were backed, it was not because the sounding of the gongs meant back, but because Wilson, the second engineer, saw that the Richmond was about to run into another boat, and he may have backed because he guessed that was what the pilot wanted, and what ought to be done at once.

We have then, positive proof that Duffy made no attempt to avoid this collision, and no timely effort to lessen its force; and that the Sabine did all that she possibly could to get out of the way of the Richmond.

When the boats were half a mile apart, the signals were crossed, no matter now by whose fault, for at that distance there was ample time for keeping out of the way. Harrison immediately stopped and backed the Sabine: Duffy merely pulled his boat closer in shore. Harrison brought his boat where Duffy had never seen a boat before and Duffy followed her there and sunk her there. Duffy after blowing his whistle did stop his larboard engine, but only for a few seconds while Wilson was walking ten steps: not long enough for his boat to feel the effect in any way. Duffy was evidently hurried. Instead of stopping his engines and backing when the signals were crossed, he pulled his boat nearer in shore, just where he knew the other boat was, brought her nearer to the course of the other boat, across the line of his own proper course, and 100 yards nearer to the shore than he had ever seen a boat, and this, as he says, to avoid a collision with the boat running that shore, between him and the shore, whose pilot had plainly told him when the boats were half a mile apart that he was on that shore, and intended to keep down that shore!

It did not occur to Duffy to stop and back; it did occur to him to stop one engine, but he changed his mind immediately and went ahead on it again: and when he found that the collision was inevitable, he had no time to ring stopping bells, but rang his gongs instead.

Harrison's faults, if they were faults, took his boat entirely out of the course of any other boat; and he promptly backed to get her further out of the way: while Duffy's faults brought the two boats into collision, at a place where he would never have thought of running if he had had the entire river to himself. Duffy's conduct shows that he was alarmed: he was evi-

dently confused: he lost his presence of mind; and the consequence was he ran into the Sabine almost at full speed, and cut half through her.

The testimony of Duffy, Cayton, the engineers and strikers of the Richmond alone, would condemn the Richmond: taken in connection with that of the witnesses for the Sabine, the case proven is one of the grossest negligence, or of the most extraordinary want of skill and judgment on the part of the officers of the Richmond; and there is no escape from the conclusion that the fault was wholly with the Richmond.

The testimony of Harkins was taken about a year after the collision, and after our original brief was printed. It is only necessary to refer to testimony of Fugit, R. p. 84, Selby, R. p. 88-89 and Levi, R. p. 96, to show that this man was in bed and asleep, at the time of the collision. Fugit swears that he went to Harkins' berth, and waked him after the collision, and when the Sabine was sunk, and M. Ansley, R. p. 89, says he would not believe him under oath, R. p. 91, that he is an awful liar and drunkard.

R. H. MARR, and
BENTINCK EGAN,
For Libellants.

SUPREME COURT U. S.
FILED
NOV 25 1980
JAMES H. McKENNEY, Clerk

SUPREME COURT

OF THE

UNITED STATES.

No. 85.

Steamboat Sabine & E. T. Parker, Adm. & als.

vs.

Steamboat Richmond & als.

Brief on behalf of Merchants' Mut. Ins. Co., libellants, and of Factors' and Traders' Ins. Co.,—Sun Mut. Ins. Co.,—New Orleans Mut. Ins. Association,—Crescent Mut. Ins. Co.,—and Mechanics' and Traders' Ins. Co., intervening libellants, underwriters on cargo.

I. A collision occured on the 11th of February, 1872, between the steamers Richmond and Sabine, a short distance below Twelve Mile Point on the Mississippi river. The injury to the Richmond was trifling; but the Sabine sank in about five minutes.

The owners of the Sabine libelled the Richmond for damages to the amount of $37,500. The master and owners of the latter boat filed their

answer, and reconvened in a cross-libel for the sum of $12,000 alleged damages.

The Sabine alleges that the collision occurred through the fault of the Richmond; and the latter retorts by laying the whole blame to the former.

The Merchants' Mutual Insurance Company libelled both boats for the recovery of amount of damages paid by them on cargo of the Sabine, charging that the collision occurred through the fault of both boats. The intervening libellants have similar claims, as subrogees of owners of cargo, insured by them.

These cases were consolidated and tried together.

The Insurance Companies, libellants and intervening libellants, allege that their Companies have respectively been compelled to pay a large insurance loss, aggregating $35,222. 44, by reason of the collision between these boats, and the sinking of one of them,—insurance policies on the cargo of the Sabine, having been issued by them, and duly paid on adjustments made in due course.

Judgment was rendered in favor of these libellants and intervening libellants against the Sabine, —but in favor of the Richmond against them.

Appeal is taken by these Insurance Companies as regards the judgment rendered against them in favor of the Richmond.

The judgment in favor of the Insurance Companies against the Sabine is now *res adjudicata*.

The present issue, as concerns the Insurance Companies, is whether the Richmond was also at fault, and, therefore, responsible to them for the

damages incurred and losses paid as underwriters on cargo on board the Sabine.

As between the Richmond and the Sabine the issue is upon their original libel and cross-libel, charging each other with the sole fault of the collision. Should the Court hold that both boats were at fault, then the Insurance Companies are entitled to judgment against both *in solido* for the full amount of the damages, say $35,222. 40.

But should the Court hold that the Richmond is liable also to the Sabine, then another issue is presented as between the Sabine and the Insurance Companies, the latter claiming priority of payment out of the funds under distribution in preference to the Sabine.

II. The collision occurred at about 2½ o'clock in the morning. There was fair weather. The two boats, as abundantly shown, saw each other at more than a mile distance. The river between Nine Mile Point and Twelve Mile Point is straight.

" It is charged, " said the Judge *a quo*, " against the Sabine that she was out of the proper place on the river, and that this was the cause of the disaster. The testimony of numerous witnesses shows that it is the common law of the Mississippi river for the ascending boat to run the points, and the descending boat to run the bends ; in other words, that the descending boat is required to keep in the main current or follow the thread of the stream, and the ascending boat to keep near the shore, crossing over

from point to point so as to shorten the distance as much possible, and at the same time sail in the eddy water near the banks."

And further on, speaking of this rule: "Boats navigating the Mississippi river have the right to presume that it will be observed, and to act on that presumption."

And the Court observes: "If the Sabine had observed the rule, the collision would have been impossible.... No reason is given, and none existed, why she could not keep the thread of the stream."

And the conclusion is drawn, from these defective premises, that the Sabine was at fault, *and not the Richmond*; and hence that the latter is free from all responsibility.

III. This is taking a narrow view of the duties and responsibilities of masters of steamboats under the navigation laws and customs. Undoubtedly, if the Sabine had not been in the bend at the time, the collision would not have taken place, taking for granted that the Richmond had pursued the course it actually did up to the place of the collision. But what were the duties and responsibilities of the Richmond under the circumstances as they happened, and *when she had seen the Sabine at more than a mile distance.* Could she blindly shoot straight where the Sabine was, because, forsooth, the latter had no business to be there? Is it a sufficient answer to say that the Richmond "*had the right to presume*" that the Sabine would strictly observe the rule as regards ascending and descending boats, "*and to act on that presumption?*" The Richmond knew she was there,

and could not act on a presumption at war with her own positive knowledge to the contrary.

IV. The rule is that injury cannot be justified on the ground that there had been a violation of a prescribed rule by the injured boat—*a fortiori* against an innocent owner of cargo.

See : 1 Conkling Adm. 410, 411 ; Lucas vs. The Swan, 6 McLean 282, S. C. ; 1 Newb. 58 ; 12 Wallace 31. The Maria Martin ; 4 Wall. 509, Bentley vs. Cogne ; 18 How. 582, Crockett et als. vs. Newton.

See Desty's Ship. & Adm. § 380. No vessel is justified by a pertinacions adherence to a rule for getting into a collision with a ship, which she might have avoided. (a) The rules are not inflexible, and a strict observance should be avoided when there is a plain risk in adhering to them ; (b) they must not be stubbornly adhered to (c). These rules have their exceptions in extreme cases, depending upon the special circumstances of the case, and in respect to which no general rule can be applied. (d).

(a) Allen vs. Mackay, 1 Sprague 219 ; The C. C. Vanderbilt, Abb. Adm. 361 ; The Friend, 1 W. Rob. 478 ; The Commerce, 3 W. Rob. 295.

(b) The Pilot, 1 Biss. 166 ; The Santa Claus, Olcott 428 ; 1 Blatch. 370.

(c) The Sunnyside, 1 Brown Adm. 250, explaining Crockett vs. Newton, 18 How. 581.

(d) St. John vs. Paine, 10 How. 557 ; The Cayuga, 14 Wall. 276 ; New York Co. &c. vs. Rumball, 21 How. 372 ; The Orinoco, Holt R. R. 98 ; The Flora, ibid. 114 ; The Great Eastern, ibid. 167 ;

sight and precaution, and a proper display of nautical skill could not have prevented." As against the owners or underwriters of cargo, the burden of proof is clearly upon the Richmond.

She attempted at first to show that it was the Sabine that ran into her, and sunk herself; and witnesses, giving vent to impressions conceived in their alarm at the time of the occurrence, were not slow to adopt that theory.

The Richmond's Exhibit XXX (page 201 of printed transcript) represents the Sabine striking the Richmond nearly at right angle; while the truth is, as stated by Judge Woods (2d Woods, p. 59): "The stem of the Richmond came in contact with the Sabine on the starboard side, four or five feet aft the flag-staff, and cut through her in the direction of the capstan, a distance of about fourteen feet."

Even on that plat the Richmond is represented as running at right angle towards the bank, which is shown to be at within one or two hundred yards from the place of collision. It is a proof that, had not the collision occurred, the Richmond would have run into the shore, a fact of which there can be no doubt, considering the depth to which she perforated the Sabine, while the latter had a heavy cargo of cotton on the very spot obstructing the blow.

The matter is not left to surmise; for the Sabine was raised, and towed to the city, where she was photographed. And witnesses spoke not from mere inference, but from actual inspection and measurement of the hull.

The testimony of captain Greenleaf Andrews,

president and superintendent of the New Orleans Wrecking Company, is full and explicit on this subject. (pp. 305–313 of printed transcript). He raised the Sabine with the assistance of his men and boats. He testifies (p. 306) that "the wound of the boat commenced about six to eight feet from the stem. I should judge the break in her was about eight or ten feet long, cutting in on deck to about two and a half to three feet beyond midships..... The knuckle clamp was cut off....a clamp bolted on the knuckles, both sides, to strengthen them." —Q. What part of a steamboat coming in collision with an other boat could have inflicted the wound that you saw on that boat?—A. The bow; the stem of the boat. — Q. Do you know any other part of the steamboat that could have penetrated so far into the Sabine? — A. I don't think any other part could have penetrated so far.

Being asked whether the wound was produced by the crushing or the blow that was given, he answers: "In my opinion it must have been given by a blow when she struck. You can't break a hole like that with the side of a boat; and besides you can see where she came together on the sides. (P. 307). Q. Can you state whether that wound is wider at the outer part, and the blow whether it gradually narrows to the point when the force is expended?— A. That is its shape, sir. It is wider at the outer part of the hole than the inner; it narrows inwards." Speaking of the capstan, he says: it was "all broken up; that is the gearing of the capstan was."

Then followed a rigid cross-examination by the

counsel of the Richmond, with the view of showing that she did not strike and perforate the Sabine, and that the injury was caused by the Sabine running into the Richmond, while the latter was motionless or drifting down. The theory is fully exploded by the explicit answers of this and other witnesses. We commend a careful study of this lengthy cross-examination and of the answers given.

VI. The whole conduct of the Richmond was a series of faults, from the moment she saw the Sabine at a distance of more than a mile, up to the time that she crossed the river going up towards Twelve Mile Point. *She was in fault*:

1°. In not answering the first signal given by the Sabine of two blasts of the steam whistle, they being then from half a mile to a mile apart;

2°. In crossing by one whistle the second signal of two whistles, given by the Sabine, in violation of Rule I of the Board of Supervising Inspectors, the Sabine being the descending boat.

3°. In not stopping and backing her engines immediately, instead of crossing the Sabine's signals, it being her duty to do so under Rule II.

4°. In having two red lights, one on the larboard chimney, and another on a jackstaff on the hurricane roof, aft of the chimney, and in having no green light on the starboard chimney, all of which is in violation of Rule XVI.

5°. In the failure to have a lookout, or officer in service on the roof.

6°. In unnecessarily coming across the river in

the direction of the Sabine, when there was such a distance separating the two boats.

We do not propose to consider, in this brief, the bulk of the testimony, bearing on the conduct of the Richmond in the premises; but, for that purpose, we rely upon, and refer the Court to the other appellants' brief, which, in this respect, is exhaustive and shows conclusively that, from the very inception, the Richmond was at fault.

VII. As between the Richmond and the Sabine the legal responsibility is mutual and on a par, both boats being at fault.

The rule stands on a different basis as regards the owners of cargo injured and destroyed. Their rights are distinct: they are more extensive than those of the masters and owners of the colliding boats *inter sese*. The owners of cargo are creditors, joint and several, of the two boats at fault; and should no satisfaction be obtainable from one of them, a full amount of damages is recoverable from the other.

In the Washington and the Gregory, 9 Wallace 513: "Where a collision between two vessels results from the fault of both of them, a party sustaining injuries from the collision may recover damages against both vessels; and they may be proceeded against in the same libel." "The damages recovered in such case may be apportioned equally between the two vessels; and, at the same time, the right be reserved to the libellant to collect the entire amount of either of them, in case of the inability of the other to respond for her portion."

The record in this case shows that the proceeds of the sale of the Sabine's wreck have been absorbed; and that she cannot in the least respond for her portion of damages due the Insurance Companies. So that judgment shall be rendered against the Richmond for the full amount of the claims of these injured third persons, as set forth in their respective libels, precisely as if the Court had held that the Sabine was not at fault.

VIII. This leads us to the position of the owners of the Sabine and of the owners of destroyed cargo with reference to each other, it being conceded that the colliding boats were at fault.

Both are entitled to recover from the Richmond. The Sabine is entitled to its portion of damages; but she is herself primordially responsible to the owners of the cargo for one half of the damages they have sustained, and she is, besides, secondarily liable to them for the other half, should the Richmond be unable to pay that portion.

Such being the responsibility of the Sabine to the owners of the injured cargo, it stands to reason that she cannot compete wtih them in the distribution of the proceeds collected from the Richmond; and that they are entitled to be paid by preference out of these proceeds. She cannot withhold payment of her portion to them, and defeat their recourse against the Richmond, by claiming to come on a par with them in the distribution of the funds, contributed by the Richmond.

We contend that the Sabine, under the circumstances, can claim none of the proceeds, recovered from the Richmond until the owners of injured cargo are indemnified in full *with interest*; and we ask the Court so to decree.

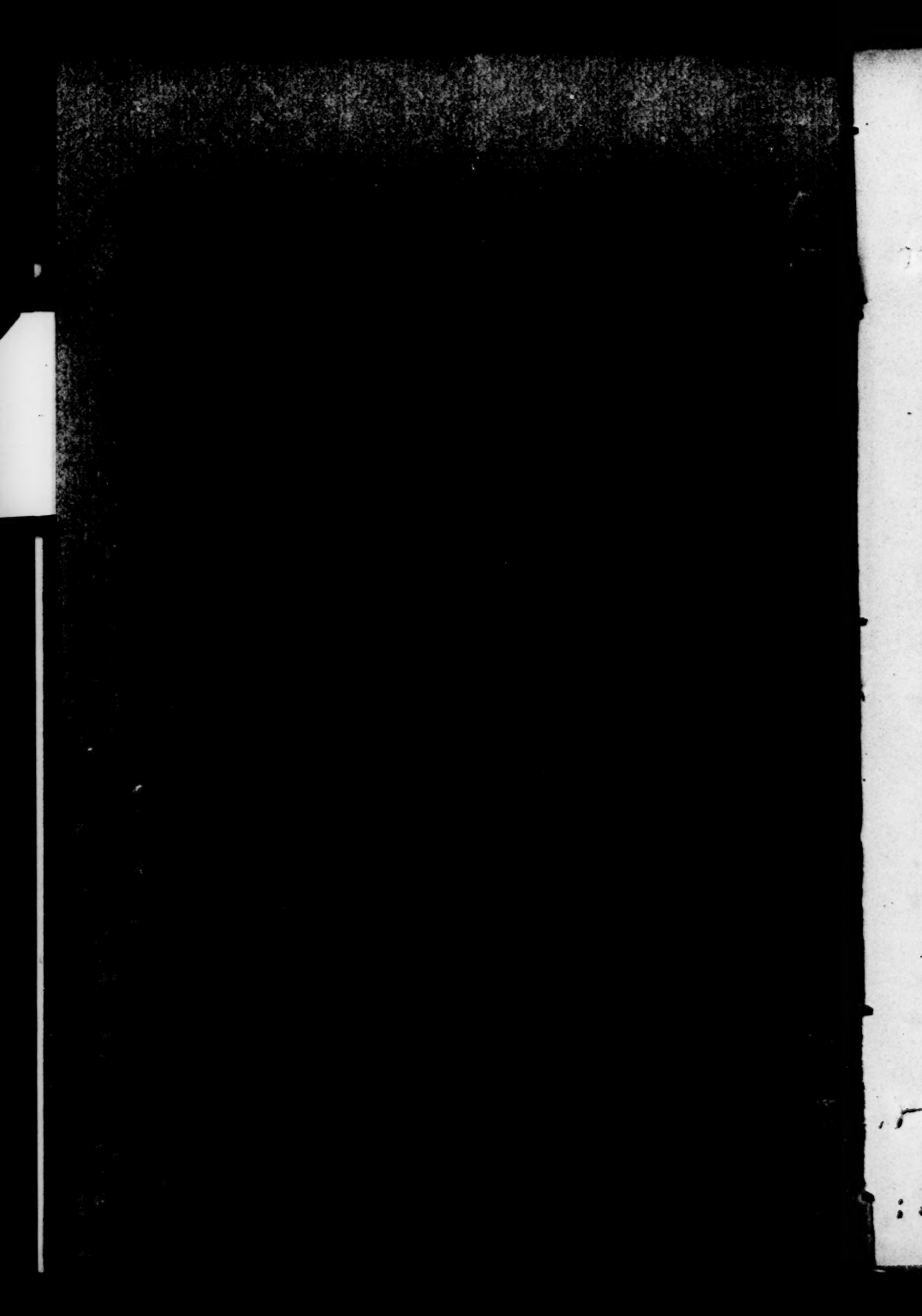
Respectfully submitted,

ALBERT VOORHIES,

M. M. COHEN,

For Insurance Companies,

Underwriters on cargo.



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IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1880.

NO. 85.

STEAMBOAT SABINE & CO.,

vs.

STEAMBOAT RICHMOND & CO.

BRIEF AND ARGUMENT FOR APPELLEES.

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For the Richmond.

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THE PLEADINGS STATED.

The original libel filed in this cause was by the owners of the Sabine against the Richmond. This libel alleges that the Sabine, of the burden of 400 tons, left Camden, Arkansas, about February 5, 1872, on a voyage to New Orleans with a cargo of cotton, 1,571 bales and sundries; that while on the voyage, on the 11th of February, 1872, between 2 and 3 o'clock A. M., when at Twelve Mile Point above New Orleans on the Mississippi River, while said vessel was running nearest to the left hand shore, her pilot saw the red signal of a steamer about a mile distant, and in the bend on the right bank of the river, and immediately the Sabine blew a double signal which was unanswered; then she slowed her engines and immediately blew another double signal, which was crossed by the ascending steamer when the boats were not more than 300 yards apart; then the pilot of the Sabine stopped and reversed the engines of the boat and commenced backing strong, and pulled his boat to the larboard to keep the ascending boat from running into him. In about a minute and a half afterwards the

Richmond ran into and struck the Sabine on the starboard side between the derrick and the forward chock, knocking overboard a part of the cotton of the cargo, a portion of which fell on the larboard side of the Richmond, the blow crushing in the guards and hull of the Sabine, so that she sank in five minutes in 20 feet water, and became a total loss. That at the time there was ample room for the Richmond to have passed on the right of the Sabine; that the Richmond was at the time of the collision going at the rate of 10 to 12 miles an hour, that the collision was wholly the fault of the Richmond, and the libel alleges the damages at $37,500, for which reparation is claimed.

The court will notice that the libel does not state the course or manoeuvers of the Richmond.

To this libel the claimant of the Richmond, Nat. S. Green, her master, answered: Denying the material allegations of the libel; admits that the Sabine was pulled to the larboard so as to cause her to run into the Richmond; striking the Richmond on her larboard side about 10 feet aft of her stem, striking the Richmond a glancing lick. Alleges that the Richmond wss skillfully handled, and was backing at the time of the collision and had stern-way; alleges that the Richmond blew first, and was within 100 yards of the bank on the right ascending, and that the Sabine had near a mile of unobstructed river to her right coming down, and could have readily avoided the collision; says that the Richmond was over 800 yards from the Sabine when she blew her single signals, and that the collision was wholly due to the fault of the Sabine.

And in the same answer by way of cross-libel, the owners of the Richmond, allege—that the Richmond, fully manned, officered, and equipped for the voyage, left the elevator at New Orleans about 2 A.M., on February 11, 1872, bound on a voyage with a cargo to St. Louis, Mo.—that she crossed to the left bank ascending, and ran up that shore, passing 9 Mile Point, until she was about opposite Kennedy's house, on that shore; that she was going at the rate of about ten miles an hour; that then she commenced to make the usual crossing to the other side of the river, under 12 Mile Point, when about midway between Kennedy's and 12 Mile Point, when within about 150 yards of the shore under 12 Mile Point, the pilot saw the lights of a descending boat about a mile off, coming down stream, around the point, then the Richmond sounded a single signal, and hauled closer in to the shore; the descending vessel responded by a double signal; immediately the wheels of the Richmond were stopped, and she was

set to backing on both engines, and blew a single signal, the Sabine, about the same time, blew another double signal; came on down and ran into the Richmond, who was heading for the right shore, ascending, under the point, and had about acquired stern-way at the moment the Sabine struck her on the larboard quarter, the starboard quarter of the Sabine scraping by, starting the stem of the Richmond; breaking one of her knees on that side, and knocking a hole in the larboard side of the Richmond.

That the Richmond was pursuing her proper course, having made the crossing and was running up the right-hand side, under the 12 Mile Point, within about 100 yards of the shore; that the Sabine was entirely to blame; because instead of proceeding down the middle of the river, her natural and proper course, she attempted to round 12 Mile Point and run down that shore, under the point between the Richmond and that shore. That when the Sabine crossed the Richmond's signal, all that the Richmond could do was to back and hold close into the shore under the point; that the Sabine damaged the Richmond by causing her to leak badly, compelling her to put back to New Orleans for repairs, and to give up her trip and lose her freight, all in the sum of $12,000.

To this cross-libel of the Richmond the Sabine filed an answer, denying the material allegations of the cross-libel, and alleging that "when the Sabine was near the turning of 12 Mile Point her pilot discovered the red light of a steamer ascending the river in the bend on the left hand shore, ascending holding close to that shore above the place where ascending steamers usually make the crossing, and the pilot of the Sabine concluded that the Richmond did not intend to make the crossing; that before this the pilot of the Sabine heard a single whistle, which he did not understand, but supposed it to have been blown by a train of cars on the shore, and he made no reply to it, that then he proceeded until the boats were the proper distance apart, when the Sabine blew her double signal, indicating her desire to keep the left shore descending, that this was not replied to; then the Sabine's engines were slowed and and her signals repeated, to which the Richmond replied by a single blast, and then the Sabine was stopped and backed. That when the Richmond made her crossing from the bend shore to the point shore she was held almost straight across the river, and continued that course until the vessels collided; that at the moment of collision the Sabine was headed down stream slightly inclined to the right hand shore ascending, and The Richmond was headed to the same shore; that the shock was violent and the collision was wholly the fault of

the Richmond; that the damage incurred by the Richmond was very slight.

The libels of the Merchants' Mutual Ins. Co., and of the Intervenors, are mere skeletons, and do not state facts sufficient to constitute a cause of action or to support a decree.

The libel of the Merchants' Mutual Ins. Co., alleges in general terms that a collision occurred between the Richmond and the Sabine, that cotton insured by the Merchants' Insurance Co. belonging to T. L. Airey & Co., valued at $16,200 was lost thereby, that libellant had paid the loss, and that the libellant has become subrogated to the rights of Airey & Co., that both boats were to blame for the collision, and claims damages from both.

Lehman, Newgass & Co. and others, intervenors, filed in this last named cause intervening libels each *pro interesse suo*—alleging about the same in a general way as is alleged in the libel of the Merchants' Mutual Insurance Co., and asking decrees for lost cottons. Their names appear on pages 17, 19 and 20 of the Record to the libel of the Merchants' Mutual Insurance Co., and the intervening libellants, the owners of the Sabine, filed answer, substantially admitting all the allegations in each except the allegations of fault upon the part of the Sabine. Rec. 20, 21.

The claimant of the Richmond answered to this libel and these interventions, denying all the allegations thereof, and alleging that the fault was wholly with the Sabine.

These cases were, by order of the District Court, consolidated. The cause was heard in the District Court, upon the evidence in the Record, and a decree was rendered on the 14th of April, 1873, dismissing the libel of the Sabine against the Richmond, and in favor of the Richmond on the cross-libel against the Sabine, and on the libel of the Merchants' Mutual Ins. Co., and the interventions therein in favor of the Richmond, and against the Sabine—and referring to a commissioner to assess the damages.—Rec. p. 34-35.

The commissioner filed his report upon the cross-libel of the Richmond, and assessed the Richmond's damages at $9,750. Rec. p. 36.

This report was confirmed by the court. Rec. p. 44.

On May 3, 1873, after this decree was entered, the various insurance companies, appellants in this cause, petitioned the district judge upon the facts alleged in this petition to substitute them to the place and stead of the various intervenors in said cause, heretofore mentioned. The district judge granted the prayer of the petition. Rec. p. 65.

After this both causes were removed to the circuit court by appeal, but not in time to operate a supersedeas.

In the circuit court, the causes were heard upon the same proofs and the same pleadings, and the circuit judge dismissed the libels against the Richmond, but gave judgment in favor of the Richmond on the cross-libel filed by her owners; and gave judgment in favor of the Merchants' Mutual Ins. Co. and the *intervenors*, against the Sabine, and referred the matter to a commissioner to ascertain and report the damages sustained by the Richmond and the Merchants' Mutual Ins. Co. and *intervenors*. Rec. p. 93.

The report of the commissioner upon the damages of the Richmond appears on p. 101. In this he estimates the damages suffered by the Richmond at $7,392.60. The report was filed on June 4, 1875.

On the 11th of March, 1876, the court confirmed this report and rendered a final decree on the cross-bill.

Record, p. 185.

The report of the commissioner in the cause of the Merchants' Mutual Insurance Co. and Intervenors v. the Sabine and Richmond, is found on p. 164 of the record.

This report was confirmed on the 25th of March, 1876.

On the 2d of November, 1876, a petition for an appeal to this court was filed in the Circuit Court, and an appeal allowed from *all* the decrees rendered in that court to this court. Record, p. 189.

The cause in the Circuit Court was tried on the same pleadings upon which it was heard in the District Court. No new pleadings were filed by the insurance companies, who claimed to be subrogated to the rights of the intervenors.

THE FACTS,

As borne out by the record, are briefly and generally stated as follows: The Richmond was a large side-wheel steamboat plying between New Orleans and St. Louis, of the burthen of about 1500 tons; the Sabine was a stern-wheel steamboat, of about 400 tons burthen, engaged in the cotton trade between Camden, Arkansas, and New Orleans.

The Sabine was bound down the river with a cargo of 1571 bales of cotton and other freight.

The Richmond had a cargo on board of sugars and other freight, and was bound up the river for St. Louis.

The place of collision was about 500 yards below a point on the left bank (geographically) of the Mississippi River, called Twelve Mile Point, about 12 miles above New Orleans, and it occurred within 100 yards of the bank under that point. At the place of collision the river is almost a mile wide and plenty of water from bank to bank. Nine Mile Point is on the opposite side of the river, 9 miles above New Orleans. Kennedy's house is about ¾ or a mile above Nine Mile Point. Steamers ascending the river cross over and go around Nine Mile Point, and run up along the right bank, geographically, to about Kennedy's house, and then make a long crossing over so as to fall in under Twelve Mile Point, and get the slacker-water on that shore; such is the usual and proper course for all ascending steamers. Descending steamers, when they reach a point called Soniats, situated upon the upper side of Twelve Mile Point, hold well out into the stream nearer the bend shore opposite Twelve Mile Point, to keep in the current. This is the usual and proper course for descending steamers. Mrs. Waggemann's is just opposite Twelve Mile Point. There is an eddy under Twelve Mile Point extending some distance out from the shore. The collision occured between 2 and 3 o'clock a. m., on Feb'y 11th, 1872. The night was not moonlit nor dark, not a bad night, there was some wind blowing quartering down from the 12 Mile Point shore, but not enough to interfere with the navigation of steamers.

The Richmond left New Orleans on the night of the 10th of February, and went up to the elevator to take sugar on as cargo; after she had taken on her cargo and stowed it, she started on her voyage up the river. Charles Duffy, an experienced pilot, was at the wheel, the Mate, Mr. Courts, was on watch on the roof. She crossed over to the right bank, (geographically) and had passed around 9 Mile Point, and had started out from about Kennedy's house, to make her crossing so as to fall in under 12 Mile Point, on the opposite shore—the left geographically—when the pilot saw a light some distance from him, apparently descending. Supposing that this might be steamer, from abundant caution, he blew one blast of his whistle, but pretty soon he discovered, from seeing the light pass behind the trees on the bank, that it was a train of cars. He continued to make his crossing, and had proceeded to within about 150 yards of the left (geographicaly) shore under the point, and about half the distance from Kennedy's to the 12 Mile Point, when he saw the lights of a steamboat descending the river about a mile distant, coming around 12 Mile Point. He was then pursuring his proper course up the river under the 12 Mile Point. When he had proceeded on his course up the river about 150 or 200 yards from the shore under the point, until he satisfied himself

that it was a boat, when about one-half a mile distant, he blew one long, loud blast of the steam whistle of the Richmond.

At this time the Sabine was rounding the point; she waited a little time, about the usual time, and replied by two blasts from her steam whistle. As soon as the Sabine crossed the signal of the Richmond, the Richmond was stopped and set to backing; and her pilot held her in closer to the shore under the point to avoid the danger of collision, and then blew another loud single whistle, continuing to haul the head of the Richmond closer into the shore. About the same time the Richmond blew her last whistle the Sabine, whose course had been changed, continued to come down, around and under the 12 Mile Point, replied by a double signal, and commenced to back on her engines, but continued heading down stream under the 12 Mile Point, quartering towards the shore. These last whistles were blown when the vessels were not over 250 yards apart; the Richmond at the time of the collision had been backed long enough to stop her, but the Sabine was not seasonably backed and continued to come on down quartering in toward the bank as if she intended to try and pass between the Richmond and that bank. The Richmond had been turned towards the bank and had got within 100 yards of the shore headed for the shore under the point when the Sabine came down in the same shape and made a hard landing against the larboard bow of the Richmond, "saddle-bagged" the bow of the Richmond; the Richmond had no headway, but the speed of the Sabine was not entirely checked, she came into the larboard quarter of the Richmond, striking the starboard quarter of the Sabine against the Richmond about the forward knee about ten feet aft of her stem, and glanced on by, knocking inboard the knee of the Richmond, knocking in a plank in the hull of the Richmond about the eight foot mark, and driving the stem of the Richmond to the starboard, causing her to leak badly; about 75 bales of cotton fell onto the deck of the Richmond, the side of the bow of the Richmond broke into the Sabine; both boats came together, side by side, headed for the shore; the Sabine went on in towards the shore without stopping, and sank in 20 feet of water, and in a few seconds after the collision, the Richmond slipped back from alongside of the Sabine, and backed out into the stream; but in a very short time the Richmond came back to the sunken vessel and rescued her crew and part of her cargo and furniture.

The Sabine, when raised, showed that her starboard quarter, beginning at a point about five feet aft of the stem was broken square in in front, and mashed back almost to the kelson, the planks aft of the short square break were mashed and bent back for about 18 or 20

feet, but the nosing and chock on the Sabine, forward of the break between the square break and the stem of the boat, was uninjured. The Sabine was raised and repaired after she was sold by order of the court, to satisfy the demand of the salvors and other claimants.

The Merchants' Insurance Co., and the various consignors who intervened in the cause, had, the cotton described in their respective libels, upon the Sabine, but nearly all of it was delivered, some in a damaged condition.

THE LAW AND ARGUMENT.

I. It is urged by appellees that under the act of February, 16, 1875—18 Stat. 315—entitled "An Act to facilitate the disposition of causes" in the Supreme Court of the United States, and for other purposes, there is nothing in this record that the court can review on this appeal.

The Act took effect on the 1st day of May, 1875. The decrees appealed from are described in the record in the petition of appeal (Rec. pp. 189-190), one as rendered on the 19th of April, 1875, and signed on the 15th of May, 1875, and, one as rendered the 11th of March, 1876, and signed the first of June, 1876, and the other as rendered on the 25th of March, 1876. The decrees were not final until the reports of the commissioners were confirmed, and then under the law in force at that time, the circuit court should have found the facts and the conclusions of law upon which it rendered its decrees. This was not done in either cause. Hence there is nothing before the court for review, and the appeals should be dismissed or the decree affirmed.

II. These appellants have all united in one petition for an appeal, and have all united to give one bond which does not seem to conform to law. Rec. 189-190-191.

This is irregular and unprecedented—each libellant, and each intervenor prosecuted a separate and distinct cause of action.

The Circuit Court considered these as distinct, and in the first decree, rendered April 19, 1875, and signed May 15, 1875, the demand of the Merchants' Ins. Co. and of the intervenors against the Richmond were dismissed, and a decree in their favor rendered against the Sabine, on the 25th of March, 1876, upon confirmation of the report of the commissioner. The petition for appeal was not filed till November 2, 1876, and the bond was not approved till December, 16, 1876.

When the District court made an order substituting the various insurance companies in place of the various intervenors, the legal effect of this was to allow the insurance companies to conduct each separate

claim as subrogee. No new pleadings were filed. Each intervenor had proceeded by his separate intervening libel *pro interesse suo*, and these insurance companies could only legally conduct each cause under the allegations of each separate intervention. The report of the commissioner shows what each intervenor had established as due to him.

Now it is insisted for appellees that these appeals should be dismissed.

First. Because there should have been separate appeals and separate bonds for appeal in each case, and because the bond given is not sufficient in form.

Second. The appeals if not dismissed on the first ground, should, all of them, be dismissed except that of the Merchants' Mutual Ins. Co., because each intervention is in law a separate and distinct demand and cause of action, and they are before the court as separate and distinct appeals; and the record shows that the amount due to each is for a less sum than $5,000. The different insurance companies cannot unite all the interventions in which they are substituted as libellants into one demand, and thus confer jurisdiction upon this court.

See Rich v. Lambert, 12 How. 347.
Rogers v. St. Charles, 19 How. 108.
Stratton v. Jarvis & Brown, 8 Peters, 10.
Spear v. Place, 4 How. 522.
Paving Co. v. Mulford, 100 U. S. 147.
Oliver v. Alexander, 6 Peters, 143.
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a. In the list of the Merchants' Mutual Ins. Co., only one demand is for more than $5,000, the claim of T. L. Airey & Co.

b. The Mechanics' & Traders' Ins. Co'.s whole claim for $899.63 Record, p. 165), is in the category of unappealable causes.

c. The Factors & Traders Ins. Co'.s claim does not embrace a single appealable intervention. Record, P. 166.

d. The Crescent Mutual Ins. Co. does not embrace one appealable intervention. P. 167.

e. The Sun Mutual is in like condition. P. 168.

f. The Commercial Ins. Co'.s demand is unappealable. P. 168.

g. The N. O. Mutual is composed of nnappealable demands. P. 169.

Third. The appeal was not taken in time to operate a supersedeas. The bond takes the place of the *res*, and where a final decree dis-

feet, but the nosing and chock on the Sabine, forward of the break between the square break and the stem of the boat, was uninjured. The Sabine was raised and repaired after she was sold by order of the court, to satisfy the demand of the salvors and other claimants.

The Merchants' Insurance Co., and the various consignors who intervened in the cause, had, the cotton described in their respective libels, upon the Sabine, but nearly all of it was delivered, some in a damaged condition.

THE LAW AND ARGUMENT.

I. It is urged by appellees that under the act of February, 16, 1875—18 Stat. 315—entitled "An Act to facilitate the disposition of causes" in the Supreme Court of the United States, and for other purposes, there is nothing in this record that the court can review on this appeal.

The Act took effect on the 1st day of May, 1875. The decrees appealed from are described in the record in the petition of appeal (Rec. pp. 189-190), one as rendered on the 19th of April, 1875, and signed on the 15th of May, 1875, and, one as rendered the 11th of March, 1876, and signed the first of June, 1876, and the other as rendered on the 25th of March, 1876. The decrees were not final until the reports of the commissioners were confirmed, and then under the law in force at that time, the circuit court should have found the facts and the conclusions of law upon which it rendered its decrees. This was not done in either cause. Hence there is nothing before the court for review, and the appeals should be dismissed or the decree affirmed.

II. These appellants have all united in one petition for an appeal, and have all united to give one bond which does not seem to conform to law. Rec. 189-190-191.

This is irregular and unprecedented—each libellant, and each intervenor prosecuted a separate and distinct cause of action.

The Circuit Court considered these as distinct, and in the first decree, rendered April 19, 1875, and signed May 15, 1875, the demand of the Merchants' Ins. Co. and of the intervenors against the Richmond were dismissed, and a decree in their favor rendered against the Sabine, on the 25th of March, 1876, upon confirmation of the report of the commissioner. The petition for appeal was not filed till November 2, 1876, and the bond was not approved till December, 16, 1876.

When the District court made an order substituting the various insurance companies in place of the various intervenors, the legal effect of this was to allow the insurance companies to conduct each separate

claim as subrogee. No new pleadings were filed. Each intervenor had proceeded by his separate intervening libel *pro interesse suo*, and these insurance companies could only legally conduct each cause under the allegations of each separate intervention. The report of the commissioner shows what each intervenor had established as due to him.

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J. T. Burdeau, 444.
R. H. Smith, 449.
Thomas P. Leathers, 453.
John W. Cannon, 472.
J. W. Carleton, 475.
Thomas J. Harrison, Pilot of the Sabine, 209
Emile Gross, 296.
Jas. Pell, 314.

Having established this general rule.

a. The proof is overwhelming that the Richmond pursued this course just prior to the collision.

F. M. Cayton, pilot of the Richmond, says, at the time he looked out before the collision, that the Richmond "was about the proper distance from shore for an ascending steamboat."—R. p.

Charles Duffy, pilot, on watch upon the Richmond, p. 360.
Daniel R. Davis, 2d Mate of the Richmond, examined by the Merchants' Mut. Ins. Co., p. 198.
Charles Kitloe, 353.
John Henry Williams, 357.
Patrick Kane, 465.
Rob't D. Court, Mate of Richmond, on watch, p.
Nat. S. Green, Mate of the Richmond.

These witnesses testify positively as to the course pursued by the Richmond, and are uncontradicted by any one on her. The evidenc in opposition to these is of a worthless nature.

All those on the Sabine who testify on this point have given three versions of this matter — in the protest of the Sabine, Rec. p. 525; before the local inspectors at New Orleans, Rec. p. 72, 73, 74, 75 — and as witnesses in this cause — none of them testify positively as to her course or position — see. evidence of Harrison, p. 207. Ensminger, p. 235, where he says, "she *looked* to be coming up the river, nearer the bend shore." M. C. Levy, 271. He says: "*I thought she was near the shore.*"

The evidence of Capt. Carleton, who had previously employed, Harrison, shows very plainly that he was not a careful or watchful pilot, R. p. 475. And the general impression to be derived from Ensminger's evidence is the same.

II.

There is a general rule for the descending boat also.

Which is that the descending boat should leave the Twelve Mile Point as she approaches it, and hold out from the point into the middle of the stream, and come down in the main current, which flows nearer to the bend shore, opposite the 12 Mile Point.

See evidence of

Thomas J. Harrison, p. 219.
D. W. Ensminger, p. 243.
Emile Gross, p. 293.
Cayton, p. 336.
Duffy, pp. 363, 370.
J. B. Woods, p. 403.
Seeds, pp. 420, 421.
Tayon, p. 426.
Burke, p. 431.
Burdeau, p. 443.
Smith, p. 450.
Leathers, pp. 454, 461.
Cannon, p. 472.
Carleton, p. 474.

a. The Sabine most certainly did not pursue this course, but came on down close to 12 Mile Point; ran around the point shaping the point, close to the shore under 12 Mile Point, a very unusual and improper place for descending boats, right in the track of ascending boats.

See evidence of

Cayton, p. ; Williams, 357; Duffy, 370, 372; J. B. Woods, 411; Seeds, 421; Tayon, 427; Burke, 431; Smith, 452; Leathers, 461; Cannon, 472; Ensminger, pilot of Sabine, 237, 251.

Now was there any reason for her to be in this unlawful situation.

The darkness of the night did not cause it.

The narrowness of the channel could not be her excuse, for the river there is from three-fourths to a mile wide and plenty of water from shore to shore. The answer given by the record is that there was just cause for her course.

The pilots of the Sabine admit that the collision might have been avoided, *had not the pilot of the Sabine made a mistake.* Record, p. 245. Where Ensminger makes the admission; for Harrison's account of same, see record, pp. 221, 223, 227, 228.

Having established these cardinal points, the law as applied to such facts is clear beyond doubt.

1. General rules and known usages should be followed, for every vessel has a right to expect that every other vessel will regard them.

Allen v. Mackey, 1 Sprague, 219.
The Friends Lushington, J., 1 W. Rob. 481.
The Shannon, 2 Hagg. 173.
St. John v. Paine, *et al.*, 10 How. 582–3.
Steamer Oregon v. Rocca, 18 How. 572.
Crocket v. Newton, 18 How. 583.
The Vanderbilt, 6 Wallace, 227.
The Johnson, 9 Wallace, 152.
The John L. Hasbrouck, 93 U. S. 405.
1 Pars. on Adm. and Ship. p. 580.

And it is no defense at all for a vessel clearly in the wrong, that the other vessel might, by departing from the ordinary rules of navigation, have avoided the collision.

The Test, 5, Notes of Cases, 276.

II.

A vessel departing from these settled rules, has the burden on her to show an undoubted special case, where their observance would tend to promote what they were ordained to prevent, or when special circumstances render a departure from them indispensably necessary to avoid immediate danger.

The John L. Hasbrouck, 93 U. S. 406.
The Pennsylvania, 18 Wallace, 126.
The Chesapeake, 5 Blatch. p. 413.
The Carroll, 8 Wallace, 397.

That the pilots who have testified as experts in this case have stated an ancient rule of navigation

See

Sinnott v. Dresden, Newb. Adm. 476-7.
Pearl v. Natchez, Newb. 490.
Goslee v. Shute, 18 How. 466, 467.
The Magenta, 2 Abbott, U. S. R. 496-7.
Williamson v. Barrett, 13 How. 106.
Jones v. Pitcher, 3 Stew. & P. 135.

Drew v. Str. Chesapeake, 2 Doug. 33.
Moore v. Moss, 14 Ills. 106.
Rogers v. McLure, 19 Mo. 557.

The deviation from this rule by the Sabine, was a capital error; the pilot of the Richmond was bound to rely upon her observance of this well known law of the river.

If the Sabine had been stopped when the Richmond's whistle sounded for her, at a distance of half a mile, *she would have floated down in the current, and there could have been no collision*, but instead of this she persistently pursued a radically wrong course, and endeavored to run between the Richmond and the shore under Twelve Mile Point, a course entirely out of her way, and where, under no circumstances, would she be justified in running.

III.

Again, it is a rule of general recognition, that if there is danger of collision between boats approaching from opposite directions, each should go to the right.

The Duke of Sussex, 1 W. Rob. 274.
The Gazille, 1 W. Rob. 475.
N. Y. & Balt. Trans. Co. v. Philadelphia & Savannah S. N. Co., 22 How. 472.
Union S. S. Co. v. N. Y. & Va. S. S. Co., 24 How. 314.
The Niagara, 3 Blatchf. 37.
Wheeler v. Str. Eastern State, 2 Curtis, 144.

"It is the golden rule of Navigation."

Lockwood v. Lashell, 19 Pa. 349.
St. John, 7 Blatch. 223.
The Johnson, 9 Wall. 153.
The Free State, 91 U. S. 205.

III.

The Richmond, in accordance with Rule No. 1, Regulating Pilots on the Rivers, blew her signal first, and at the proper distance, about half a mile distant from the Sabine. This was after a little while crossed by the Sabine, by two blasts from her whistle, and then the Richmond, who was close in to the shore, under 12 Mile Point, blew again a single blast, which was about at the same time crossed by two from the Sabine.

The signal for the cars was blown by the Richmond from abundant caution. Rec. p. 372, and did not mislead the Sabine.

See testimony of

Duffy, 362;
Cayton, 334;
McCord, 435-6;
Kane, 465;
Green, 506;
Court, 491.

These six witnesses on the Richmond testify as to the three signals of the Richmond, with the exception of Kane, and they are corroborated by the statement of Ensminger, pilot of the Sabine, to Captain Carleton. Rec. 475-6.

When the pilot of the Sabine crossed the signal of the Richmond, he took the responsibility of a departure from the ordinary rule of navigation upon his own boat, who alone is accountable for this disaster.

The Johnson, 9 Wallace, 150.
The St. John, 7 Blatchf. 223-224.

The testimony of those on board the Richmond as to her maneuvers and whistles, is of greater weight than the testimony of those on the Sabine, none of whom are very positive.

See the

Neptune, Olcott, 495;
The Fannie, 11 Wallace, 242;
The Governor, 1 Abbott, 114;
The Narragansett, Olcott, 247;
The Wenona, 19 Wallace, 54-58.

II. The Richmond obeyed the Rule No. — Regulating Pilots, and promptly stopped and backed, and at the same time was pulled so as to swing in closer to the shore under the point, for the purpose of avoiding the collision. As to the bells on the Richmond, see evidence of

Lentz, 318–319;
Travis, 325-326;
Jones, 330;
Sanders, 350;
Ketloe, 350;
North, 375;
Callow, 389;
Wilson, 396;

McCord, 435;
Court, 497-498.

The following witnesses prove that she was actually backed: Travis, 328; Jones, 330; Cayton, 335; Sanders, 350; Williams, 357; Duffy; 368; North, 376; Farley, 382; Callow, 389-390; Wilson, 397; Kane, 465; Jack, 488; Green, 507-508.

The Sabine was not seasonably backed, for her own witnesses all show that she was not stopped or backed until after the whistles were crossed the second time, and then the boats were very close together. The pilot's rules are very plain upon this subject, and if her pilots had known and obeyed this rule, as to backing, there would have been no collision.

Precautions to avoid collisions must be seasonable.

See the

Teutonia, 23 Wall. 84.
Fairbanks, 9 Wall. 424.
Johnson, 9 Wall. 153.
Wenona, 19 Wall. 54.

The course pursued by the Richmond to avoid the collision was the most prudent one that her pilot could have taken, that is to get closer in to the shore under the 12 Mile Point; any other course would have been fatally imprudent.

See evidence of

Duffy, 370-1-2-3;
Leathers, 460; Cannon, 474;
Pell, 315; Court, 493-504;
Green, 510.

The Sabine changed her course after the signal of the Richmond—All the evidence shows that she was pulled in closer to the shore, under the point, and tried to take that shore from the Richmond. R. 251. If she had not changed her course, there would have been no collision. This change was due to the obstinacy, ignorance or incompetency of her pilot, or, as it is expressed in Ensminger's testimony, to his *mistake*.

The signal lights of the Richmond were burning brightly and in their proper places.

See evidence of

Farley, 389.
Langlois, 418; Court,
McCord, 436; Green,

The witnesses for the Sabine speak only of a red light, but it is plain that they knew that the light was from an ascending steamer, and they were not mislead.

The Richmond had proper lookout. See evidence of

Kane, 456; Lentz, 319;
Duffy, 367; Court, 491-493;
Green, 506-514.

But even if there had been no lookout, under the circumstances of this case it would have made no difference, for both boats discovered each other near a mile distant.

A boat is not liable for want of a lookout, if such want did not contribute to the collision.

See

The Wanata, 95 U. S. 609.
The America, 92 U. S. 436.
The Dexter, 23 Wallace, 338.
The S. B. Wheeler, 20 Wallace, 385.
The Mary Martin, 12 Wallace, 44.
The Farragut, 10 Wallace, 338.

The theory of the Sabine that the Richmond made a square crossing from Mrs. Waggeman's, after her whistle was blown, and ran into the Sabine, who, when this whistle was blown, was rounding the point, and hence must have been below Mrs. Waggeman's, is at war with common sense. If the boats were where the witnesses for the Sabine place them, the Richmond could not have crossed the river and collided with the Sabine at the place where the collision occurred—she could not have caught the descending boat within a mile of the Twelve Mile Point, if she had pursued her down the river for that purpose. It might have been done if the Sabine had stopped and waited for the Richmond to run across the river and come down to her.

Waggeman's is above Twelve Mile Point, according to some, and right opposite, according to others.

See evidence of

Cannon, 473;
Gross, 299;
Green, 510;
Ensminger, nearly opposite, 249?

It is a settled rule in collision causes, that if, in consequence of alarm or excitement caused by the fault of the wrong-doer, an error is made in the management of the other boat, that error is excused.

The Genesee Chief, 12 How, 461;
The Carroll, 8 Wall. 305, 306.

But we maintain that the Richmond committed no error.

The burthen of proof is upon the libellant.

The Catherine of Dover, 2 Hagg. 145;
The Maid of Aukland, 6 Notes of Cases, 240;
The Grace Girdler, 7 Wall. 203.

In conclusion, it is respectfully submitted, that under the law and the evidence, the court must conclude that the conduct of the Richmond throughout was prudent, wise and lawful, and that the course pursued by those in charge of the Richmond, was not not only justifiable but obligatory. That the course pursued by the Sabine was just the contrary; that she violated well established and even ancient rules of navigation, and was handled in direct disregard and violation of the pilot's rules, which have the force of law, and that she, without any reason or excuse, undertook to run down around and under 12 Mile Point, which her pilot knew was the ordinary way and track of ascending steamers, and hence is clearly chargeable with the whole fault of the collision.

An affirmance of this decree of the Circuit Court in favor of the Richmond is respectfully asked.

GIVEN CAMPBELL.
For the Richmond.